

Fralick, Adriana

From: Thornley, Anna
Sent: Tuesday, November 05, 2013 10:58 AM
To: Fralick, Adriana

Committee to Conduct an Interim Study Concerning the Impact of Technology upon Gaming

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**DRAFT 1
REGULATION 3.015**

In a county whose population is 100,000 or more, in determining the number of slot machines, up to a maximum of 15, which may be operated at a 3(a) establishment, both upon initially licensing and on a yearly basis thereafter, the following criteria shall be applied:

(a)Is the total square footage of the public area floor space utilized for service of food, beverage and other activities (i.e. bar stools not dedicated to gaming, dining areas, seating area in lounges or television viewing areas, areas around games (i.e. pool tables, video games)), greater to the total square footage of the area utilized for operation of slot machines, including, slot machine, seating and walkways areas around slot machines? If yes the location shall receive [] points;

(b)Does the location have a "dedicated kitchen staff" (at least one cook 12 hours per day who is preparing hot meals) and a "dedicated bartender" (at least one bartender at all times the establishment is open for business)? If yes the location shall receive [] points;

(c)Do sundries, including tobacco, account for less than 20% of the sales subject to sales tax at the location; including any such sundry item which is complimentary? (sundries are defined as any product other than food & beverage which is offered for sale at a 3(a) establishment) If yes the location shall receive [] points;

(d)Do the cash sales of food and beverage at the location exceed the complimentary food and beverage sales of the location? If yes the location shall receive [] points;

(e)Does the location have a bar with a minimum of 8 slot machines embedded in the bar? If yes the location shall receive [] points.

Should a 3(a) establishment receive [] or more points it shall be entitled to operate up to 15 slot machines. Should a 3(a) establishment receive less than [] points it shall be entitled to operate no more than 7 slot machines.

Any 3(a) establishment which self-reports points which total less than [] points for any yearly reporting period shall have a period of ninety (90) days following receipt of such report by the commission within which to correct, some, or all, of the criteria, to increase the point total for the location to [] or more to allow the location to continue to operate more than 7 slot machines.

Should a 3(a) establishment fail to receive [] or more points for 2 consecutive years, the criteria shall not be subject to correction and the location shall be required to remove the proscribed number of slot machines.

Any prospective purchaser of an existing 3(a) establishment may be entitled to replace previously removed slot machines should the new operations, as set forth in their application, receive more than [] points.

Porter Gordon Silver

The preceding requirements set forth in this section shall not apply to any 3(a) establishment which was granted a gaming license by the commission before [_____], and which has not ceased operations for a period in excess of 18 months.

DRAFT 1

REGULATION 3.015

PURPOSE OF THE AMENDMENT: To comply with the requirements of Senate Bill 416 and Assembly Bill 360 as adopted by the 77th Nevada Legislature; to delete some provisions that apply to a location that is a bar, tavern, saloon or other similar location licensed to sell alcoholic beverages by the drink for on-premises consumption, including the minimum square foot and restaurant requirements, the number of seats at the bar, the necessity to have a service contract with a liquor distributor, the minimum number of seats for use by patrons, and the grandfather provisions that apply to such matters; to remove the change in the number of machines disqualifier for the grandfather provisions applicable to restricted licenses; to establish that it shall be an unsuitable method of operation for a 3(a) establishment, subsequent to the date a restricted gaming license was last approved by the commission for that establishment, to change or alter the size of the location or the configuration or detail of the bar or restaurant from that which was required to be met by law or regulation in order to obtain a restricted gaming license; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

LICENSING: QUALIFICATIONS

(Draft date 06/21/13)

Additional Language: (Underlined and in Blue).

Deleted Language: (~~Stikthrough and in Red~~).

3.015 Applications for restricted licenses.

1. An application for a restricted license may only be granted if the operation of slot machines is incidental to the primary business conducted at the location and the board and commission determine the location is suitable for the conduct of gaming and the applicant meets the requirements of this Section.

2. ~~Except as required in subsection (h), in~~ in recommending and determining whether the applicant's proposed restricted location is suitable for the conduct of gaming and meets the requirements of this Section, the board and commission may consider some or all of the following factors:

(a) The amount of floor space used for the slot machines, which space shall include the area occupied by the slot machines, including slot machine seating and circulation, as compared to the floor space used for the primary business;

(b) The amount of investment in the operation of the slot machines as compared to the amount of investment in the primary business;

(c) The amount of time required to manage or operate the slot machines as compared to the amount of time required to manage or operate the primary business;

(d) The revenue generated by the slot machines as compared to the revenue generated by the primary business;

(e) Whether a substantial portion of the financing for the creation of the business has been provided in exchange for the right to operate slot machines on the premises;

(f) Other factors, including but not limited to the establishment's name, the establishment's marketing practices, the public's perception of the business, and the relationship of the slot machines to the primary business; and

(g) What other amenities the applicant offers to its customers. and

~~When a location is a bar, tavern, saloon or other similar location licensed to sell alcoholic beverages by the drink, for on-premises consumption, the location must:~~

- ~~(1) contain a permanent physical bar, subject to standards established by the board, wherein individual seating is available for at least nine (9) customers at all times to consume beverages and/or food items on the side opposite from where the alcoholic liquor is kept, where the sale and service of beverages are by the drink across such structure and which the permanent bar satisfies all applicable health and building code standards;~~

- ~~(2) contain a minimum of two thousand (2,000) square feet of space available for use by patrons and seating capacity for at least twenty (20) persons not related to or associated with gaming positions if the establishment intends to operate more than four (4) slot machines;~~

- ~~(3) establish and maintain a contract or service agreement with a licensed liquor distributor; and~~

- ~~(4) contain a restaurant as defined herein.~~

3. Except as provided by subsection 6, only the establishments listed below are suitable for the conduct of gaming pursuant to a restricted license:

(a) Bar, tavern, saloon or other similar location licensed to sell alcoholic beverages for on-premises consumption, other than just beer and wine, by the drink;

(b) Convenience store;

(c) Grocery store;

(d) Drug store; and

(e) Liquor store.

Unless the commission determines otherwise, there shall be a limit of no more than 7 slot machines operated at a convenience store, and a limit of no more than 4 slot machines operated at a liquor store.

4. If the commission deems an application for a restricted license to be based on exceptional circumstances, the commission may waive subsection 3 upon a finding that the waiver is consistent with Regulation 3.010 and the public policy of the State of Nevada.

5. Subsection 3 shall not apply to any type of business approved by the commission as suitable for the operation of slot machines pursuant to subsection 6.

6. Any person may apply for a preliminary determination that a type of establishment not listed in subsection 3 is suitable for the conduct of gaming by filing an application with the board together with all applicable fees per Regulation 4.070. The application shall contain (a) a definition of the type of establishment and (b) a demonstration that the operation of slot machines in such a type of establishment is consistent with Regulation 3.010 and the public policy of the State of Nevada. The application shall be considered

by the commission, upon recommendation by the board. Public comment shall be accepted when the application is heard by the board and commission.

7. Slot machines exposed for play in grocery stores and drug stores shall be located within a separate gaming area or alcove having not fewer than 3 sides formed by contiguous walls or partial walls. For the purposes of Regulation 3.015, "partial wall" or "wall" may include, without limitation, 1 or more gaming devices, if the gaming devices are configured together or in conjunction with other structures to create a barrier that is similar to a partial wall or wall.

8. In grocery stores or drug stores, automated teller machines shall not be placed within a designated gaming area or alcove and, at all other restricted locations, automated teller machines shall not be placed adjacent to slot machines.

9. The requirements of this Regulation shall apply to all restricted licensees, except as provided herein:

(a) Subsections ~~2(h)~~, 3 and 7 do not apply to an establishment for which a restricted license was granted by the commission by February 1, 2000, provided that the establishment does not cease gaming operations for a period of more than 12 months or, upon the administrative approval of the chairman of the board, for a period of not more than 24 months, and that the nature and quality of the primary business of the establishment has not materially changed, ~~and that the number of slot machines operated at the establishment has not been increased;~~

~~(b) Subsections 2(h)(2) and 2(h)(4) do not apply to any Subsection 3(a) establishment for which a restricted license was granted by the commission on or before August 25, 2011, provided that the establishment does not cease gaming operations for a period of more than 12 months or, upon the administrative approval of the chairman of the board, for a period of not more than 24 months, and that the nature and quality of the primary business of the establishment has not materially changed, and that the number of slot machines operated at the establishment has not been increased; and;~~

~~(c) For those Subsection 3(a) establishments granted a restricted license from February 2, 2000 through August 25, 2011, they shall have until August 25, 2013 ~~2014~~ in which to demonstrate compliance with Subsection 2(h)(1) and 2(h)(3) of this Regulation to the board's satisfaction.~~

~~This Subsection 9(c) and the requirements of Subsection 2(h)(1) may be waived in whole or in part at the discretion of the Commission upon the filing of an application and a showing by the licensee that the establishment's physical limitations effectively prevent compliance herewith.~~

~~10. The requirements of subsection 2(h) may be waived in whole or in part at the sole and absolute discretion of the Commission upon the filing of an application and a showing of circumstances consistent with the public policy of the state.~~

~~11. Regardless of whether subsection 9 applies, it shall be an unsuitable method of operation for any subsection 3(a) establishment that is in compliance with subsection 2(h), or any portions thereof on August 25, 2011, to thereafter fail to maintain such compliance or partial compliance, including but not limited to removing a permanent physical bar, reducing the number of bar seats from its current number of nine or less than nine, eliminating a restaurant, or reducing restaurant seating capacity from its current number of seats if 20 or less than 20.~~

~~12.~~ It is an unsuitable method of operation to materially change the nature and quality of the primary business after the commission has granted a restricted gaming license to conduct gaming at an establishment, without the prior administrative approval of the board chairman or his designee. A material change in the nature and quality of the primary business is presumed to occur if:

(a) ~~any of the requirements of Section 2(h) have not been maintained,~~ a zoning change is required, or a new business license, special use permit, or any other license, permit or approval must be obtained from the applicable county, city, or township licensing, zoning or approval authority, in order to change or operate the primary business in a manner that is different from what was being conducted at the time the gaming license was granted, or

(b) For a 3(a) establishment, subsequent to the date a restricted gaming license was last approved by the commission for that establishment, to change or alter the amount of square footage available for use by patrons, or the configuration or detail of the bar or restaurant from that which was required to be met by law or regulation in order to obtain a restricted gaming license.

~~13.~~ 11. Nothing in this subsection shall be construed to limit or otherwise encumber the ability of any restricted gaming licensee to transfer, sell, or convey the business pursuant to the provisions of NRS chapter 463 and Regulation 8.

~~14. For purposes of this Regulation 3.015, the term "restaurant" shall mean a space kept, used, maintained, advertised and held out to the public as a place where hot meals are prepared and served on premises, providing a seating capacity of at least twenty (20) persons not related to or associated with gaming positions. The kitchen must be operated no less than fifty percent of the hours per day that the location is open for business.~~

Effective Date _____.



PISANELLI BICE

August 19, 2013

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VIA U.S. MAIL & E-MAIL

Ms. Adriana Fralick,
Executive Secretary
Nevada Gaming Commission
555 East Washington Avenue, Suite 2600
Las Vegas, NV 89119
afralick@gcb.nv.gov

Re: *Regulation 3.015 Revisions*

Dear Ms. Fralick:

On behalf of Station Casinos, LLC ("Stations"), I write regarding certain comments made during the Gaming Control Board's (the "Board") July 24, 2013, public workshop on revisions to Regulation 3.015, which sets forth a longstanding requirement that restricted gaming must be "incidental" to the licensee's primary business. I was highly surprised to see in the workshop transcript a suggestion by the Board's counsel that he reads Section 3 of Senate Bill 416 (SB 416) as somehow eliminating the "incidental" requirement for those selling alcohol by the drink in counties with a population of more than 100,000. I note that no analysis, case law or other legal support was proffered for what would be a sweeping reversal of longstanding licensing requirements. As further discussed below, Stations disputes that there is any factual, logical or legal support for such a position.

The Deputy Attorney General's declaration – that the "discussion with regard to incidental is over" – is, respectfully, indefensible hyperbole. It suggests that by articulating additional minimum physical criteria – including bar, restaurant and square footage requirements for establishments licensed to sell alcohol by the drink – the Legislature somehow eliminated the discretion of both the Board and Gaming Commission ("Commission"), but only for those types of businesses and then only for those located within the State's two largest counties. For everyone else, the settled requirement that gaming must be "incidental" to a primary business remains. Apparently, under this proffered view, the Legislature (without ever saying it) intended to completely transform Nevada's regulatory structure by setting forth an exclusive test for determining when an establishment licensed to sell alcohol by the drink in the two largest counties may have restricted gaming, but preserving the long existing criteria for all others. Supposedly, once such operator meets the minimum physical criteria, they become entitled to operate



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the maximum number of machines permitted by law (15), regardless of whether they truly have any business purpose other than gaming.

With all due respect to the Deputy Attorney General's suggestion, we submit that there is no basis to assert that SB 416 weakened, let alone eliminated, the requirement that a restricted license is available only when gaming is "incidental" to a primary business purpose. The opposite is true. The plain terms of SB 416, as well as the rules of statutory interpretation, confirm that the Nevada Legislature in no way narrowed the powers of gaming regulators. Rather, what the Legislature narrowed is the class of operators that could even qualify for a restricted license in the first place.

The requirement that restricted gaming be "incidental to the primary business" has existed in Nevada law since 1967. In 1985, the Legislature codified the requirement in NRS 463.161(1) providing that: "A license to operate 15 or fewer slot machines at an establishment in which the operating of slot machines is *incidental to the primary business* conducted at the establishment may only be granted to the operator of the primary business or to a licensed operator of a slot machine route." (Emphasis added). In 1989, Senate Bill 301 made the definition of "restricted license" in NRS 463.0189 consistent with the definition in existing regulations. Specifically, "restricted license" is defined as one that authorizes slot machine operation that is "*incidental to the primary business.*" (Emphasis added). That definition remains unchanged by SB 416 or any other legislative enactment. This requirement is and remains the foundation for determining who qualifies to conduct restricted gaming.

The policy behind this requirement is long standing. Gaming is a privilege under Nevada law. *State v. Rosenthal*, 93 Nev. 36, 44, 559 P.2d 830, 835 (1977) ("[G]aming is a privilege conferred by the state and does not carry with it the rights inherent in useful trades and occupations."). To promote the State's economic interests, that privilege is reserved for those who will bestow benefits upon the State through job creation and tax revenues. Simply put, gaming for the sake of gaming is not what maximizes the public benefit. The State's interest is in authorizing gaming under circumstances that will promote the public interest. That is why the law has long-precluded what are commonly referred to as "slot parlors." Those operations seek to obtain the benefit of gaming without bestowing a sufficient return to the State and the public.

There can be no question as to the renewed focus on enforcing the State's longstanding policy. The proliferation of slot parlors is well-documented and has fueled concerns that the failure to require compliance with the legal obligations to receive the privilege ends up penalizing those who actually comply with the law's requirements. Over time, such noncompliance erodes the State's policy objectives and ultimately leads to even further noncompliance.



It is the State's longstanding policy that the Legislature had in mind when enacting SB 416, which establishes minimum physical facility requirements in those counties with a population of 100,000 or more to even qualify for a restricted gaming license in an establishment that sells alcohol by the drink. To have even one machine, those types of establishments must meet the State's minimum physical requirements. Thereafter, it remains with the Board and/or Commission to determine whether the applicant can meet their burden of demonstrating a primary non-gaming business using, among other things, the factors set forth in Regulation 3.015(2)(a)-(g). That is why the Legislature in SB416 did not even touch the terms of NRS 463.161(1), which continues to mandate that a restricted license *may only* be issued to those where gaming will be incidental to primary business.

In making that determination, both the Board and the Commission remain guided by the statutory factors and the plain meaning of the "incidental" to the primary purpose requirement. As the Commission is no doubt aware, this language is hardly unique to Nevada or gaming. *See e.g., Stevens v. U.S.*, 302 F.2d 158, 163 (5th Cir. 1962) (To satisfy "incidental" requirement, operator must demonstrate that the "sale of refreshments plays only a *supporting role* in entertainment operation.") (emphasis added). *Billen v. U.S.*, 273 F.2d 667, 670 (10th Cir. 1960) (sale and service of food and refreshments not incidental within meaning of that word in cabaret tax where it formed 50% of taxpayer's gross revenue).

Applying this statutory language, the Board and Commission must still determine how many machines, if any, the applicant may be allowed to have even if they provide the minimal physical facilities. SB 416 does not relax the State's public policy. The amendment seeks to enhance it by adding minimum requirements for establishments licensed to sell alcohol by the drink to operate restricted gaming in counties whose population is 100,000 or more:

In a county whose population is 100,000 or more, a license to operate 15 *or fewer* slot machines at an establishment which is licensed to sell alcoholic beverages at retail by the drink to the general public *may only* be granted if the establishment meets the requirements of this subsection.

As its express language shows, SB 416 did *not* repeal the existing language in NRS 463.161(1) requiring restricted gaming to be "incidental to the primary business" or eliminate the Board or Commission's discretion (and obligation) to enforce the State's policy.

Nevada law has long rejected the suggestion that preexisting laws or public policy can be repealed by implication. Such "practice is heavily disfavored, and we will not consider a statute to be repealed by implication unless there is no other reasonable construction of the two statutes." *Washington v. State*, 117 Nev. 734, 739, 30 P.3d 1134, 1137 (2001); *State*



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v. Thompson, 89 Nev. 320, 322-23, 511 P.2d 1043, 1045 (1973) ("Repeals by implication are not favored and will not be indulged if there is any other reasonable construction."); *Radzanower v. Touche Ross & Co.*, 426 U.S. 148, 154 (1976) (It is "a cardinal principle of statutory construction that repeals by implication are not favored."). "It is also a well-recognized principle that statutes relating to the same matter which can stand together should be construed so as to make each effective." *State v. Eggers*, 36 Nev. 372, 136 P. 100, 103 (1913).

In keeping with the requirements of Nevada law, both the Board and Commission are still obligated to ensure that restricted gaming is only permitted in those circumstances consistent with the State's policy. This means that applicants licensed to sell alcohol by the drink in counties whose population is 100,000 or more must first meet the newly-minted minimal physical requirements to even apply. But, just because they satisfy those minimal requirements does not mean that they are entitled to a gaming license or to receive 15 machines. They still must demonstrate that the gaming they propose to conduct, regardless of the number of machines, is incidental to the proposed tavern business. That is, of course, the very same criteria which apply to all other counties and all other restricted licenses. The Legislature did not relax the criteria for those that may qualify to conduct restricted gaming in counties of 100,000 or more persons. It increased the criteria by imposing a minimal threshold physical requirement for certain type of businesses.

The law is equally well-settled that statutory amendments must be interpreted so as to carry out the Legislature's intent. *Eggers*, 36 Nev. 372, 136 P. at 103-04 ("In the interpretation of statutes the courts so construe them as to carry out the manifest purpose of the Legislature."). Here, it cannot be seriously doubted that the Legislature intended to tighten the criteria under which certain operations may conduct restricted gaming in those counties exceeding 100,000 in population.

For these reasons, Stations must echo and reinforce the recent letter from the Nevada Resort Association concerning SB 416 and its impact upon the powers and obligations of the Board and this Commission. SB 416 did not eliminate the long-standing requirement that restricted gaming operations be "incidental" to the operator's primary business. Rather, it established a minimum criteria as to the physical requirements any establishment licensed to sell alcohol by the drink in counties whose population is 100,000 or more must satisfy to even qualify to operate one slot machine on its premises.

Sincerely,

Todd L. Bice, Esq.

TLB/zs



August 6, 2013

Ms. Adriana Fralick, Executive Secretary
Nevada Gaming Commission
555 East Washington Avenue
Suite 2600
Las Vegas, NV 89119

RE: Proposed Amendments to Regulation 3.015 and Legal Counsel's Opinion Re "incidental" Test

Dear Ms. Fralick,

At the July 24, 2013, public workshop concerning proposed amendments to Regulation 3.015, legal counsel for the State Gaming Control Board opined that meeting the new statutory requirements in Senate Bill 416 (SB 416) for bars and similar establishments in Clark and Washoe Counties would constitute satisfaction of the "incidental" test. Accordingly, if an applicant were to meet these minimum requirements for licensure, the applicant would not need to demonstrate that the operation of slot machines would be incidental to the primary business of the establishment. The Nevada Resort Association (NRA) respectfully disagrees with this interpretation and strongly urges the Nevada Gaming Commission to reject it.

The language of SB 416 does not indicate that the "incidental" test is being preempted by these new provisions or that the "incidental" test has been amended in any way. Both section 1 and section 3 of SB 416 amend sections that include descriptions of restricted licensure, yet neither section amends the language defining such an operation as one in which "the operation of slot machines is incidental to the primary business" of the establishment. These are not oversights; both sections were in the bill, and neither was amended to change the "incidental" test or to indicate that the new requirements affected it. On the contrary, the plain language of the bill indicates that the new provisions constitute a minimum requirement:

2. In a county whose population is 100,000 or more, a license to operate 15 or fewer slot machines at an establishment which is licensed to sell alcoholic beverages at retail by the drink to the general public may only be granted if the establishment meets the requirements of this subsection. (Subsection 2 of NRS 463.161, as amended by section 3 of SB 416, emphasis added.)

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The phrase “may only be granted” gives the Commission the power, *but not the duty*, to grant a license if the requirements are met and prohibits (“only”) granting a license if they are not.

SB 416 adopted additional requirements that are similar to the existing provisions of subsection 2(h) of Regulation 3.015, though SB 416 limited the new requirements to Clark and Washoe Counties. The adoption of subsection 2(h) of Regulation 3.015 did not eliminate the need to consider the factors in subsections 2(a) through 2(g) (floor space, investment, etc.), which have long been instrumental in determining whether slot machines are incidental to the primary business of an establishment. There is no reason to believe that the Legislature, in adopting additional requirements for licensure similar to those in subsection 2(h), intended anything different; although the Legislature has now specified the minimum requirements for bars and similar establishments in Clark and Washoe Counties, the existing standards in subsection 2 of Regulation 3.015 continue to provide guidance to the Board and Commission in determining whether slot machines are incidental to the primary business of the establishment – a separate, additional determination.

Finally, adopting the proposed legal interpretation would be contrary to public policy. If there is no consideration of the “incidental” test, applicants could engage in the very sort of race to the bottom that SB 416 was intended to prevent. An applicant could make the bare minimum investment in infrastructure necessary to comply with the requirements of SB 416, hire only a few employees, and promote the establishment as a slot parlor. Under this interpretation of SB 416, the applicant will have met the “incidental” test, and the Commission will be precluded from considering whether the slot machines are incidental to the primary business. In the absence of any statutory language or legislative intent to support this interpretation, we do not understand why the Commission would choose to tie its own hands in this manner. The legislation was intended to impose higher standards in Clark and Washoe Counties, not to prohibit the Commission from enforcing the most basic, central requirement of restricted licensure.

We therefore urge the Commission to reject this interpretation and affirm that all applicants for restricted licenses, even those who are also required to meet the minimum requirements for bars and similar establishments in Clark and Washoe Counties, are required to meet the “incidental” test, and a restricted license can only be issued if the operation of slot machines is incidental to the primary business of the establishment.

Sincerely,



Virginia Valentine, President
Nevada Resort Association



Corey Sanders, Chairman
Nevada Resort Association

**cc: Peter C. Bernhard, Commission Chairman
John Moran, Commissioner
Tony Alamo, M.D., Commissioner
Joe Brown, Commissioner
Randolph Townsend, Commissioner
A.G. Burnett, Board Chairman
Shawn Reid, Board Member
Terry Johnson, Board Member**



CASINOS ♠ SLOT MANAGEMENT ♠ TAVERNS

July 23, 2013

Ms. Sally Elloyan, Executive Secretary
Nevada Gaming Commission
555 East Washington Avenue
Suite 2600
Las Vegas, NV 89119

Re: Golden Gaming's Comments to Proposed Amendments to Regulation 3.015

Dear Ms. Elloyan:

I understand that these comments were due Friday, July 19th, I apologize for the tardiness but Golden Gaming did want to get these comments to you prior to your workshop.

Golden Gaming is the largest Restricted Gaming Operator in the State, providing slot machines, video poker machines, accounting support, marketing support, and secure safes for over 600 locations in the State. Our business model supports traditional taverns, truck stops, supermarkets, drug stores, and convenience stores.

For the past several years, we have witnessed, first hand, a significant amount of traditional taverns that have closed. The economy has certainly taken its toll on this business model. In addition to the economy, the simple fact is that the overhead in operating a traditional tavern has, in many cases, become the tipping point. Capital costs in building a traditional bar, dining area, and kitchen, coupled with employment costs, upkeep and utilities, have led to the demise of the model. In its place has risen a competing model in which amenities are scaled back, employees are cut, and investment is reduced. We call this model a "tavern lite". Without some type of adequate review process, this model has started to dominate the marketplace and threatens to destroy the traditional tavern completely in the future.

For all of the revisions made to the Nevada Revised Statute, Gaming Regulations, and local codes and ordinances in the past several years, all that has been accomplished is the cessation of new tavern construction and the conversion of existing taverns to the "tavern lite" model. This will continue unless the Control Board and Commission utilize the tools in their Regulations to ensure some type of compliance with 3.015.

Golden Gaming believes in the traditional tavern model. We believe that traditional operators have the ability to overcome the challenges I have mentioned. We work with many excellent tavern operators who offer outstanding guest experience that does not rely solely on gaming. We continue to work with our third party partners to overcome recent challenges and praise them for their steadfast efforts to be model-restricted operators, great employers, and a support

to the Nevada economy. We, therefore, agree in concept with applying the factors enumerated in 3.015.2 to all locations applying for restricted licenses including existing taverns. That said, we do not believe inclusion of a "revenue" test, should be one of those factors. The Nevada Legislature has discussed revenue tests as the basis for determining whether gaming is incidental to a primary business on numerous occasions over the past three decades and has always come to the conclusion that a revenue test is not the appropriate test in making this determination.

Golden Gaming calls this a "common sense test". This refers to the experience a guest receives when they enter a restricted establishment:

- A. Is there a real bar?
- B. Are they pouring real drinks?
- C. Are you able to relax and watch a sporting event or see what is happening in the news?
- D. Can you order a real meal? A burger, fries, a pizza, or a Philly cheesesteak?
- E. Is there a server that serves you or a cook that takes time to prepare your meal?

Golden Gaming would propose the following:

"2. In recommending and determining whether the applicant's proposed restricted location is suitable for the conduct of gaming and meets the requirements of this Section, the board and commission ~~may~~ shall consider some or all of the following factors:

- (a) The amount of floor space used for the slot machines, which space shall include the area occupied by the slot machines, including slot machine seating and circulation, as compared to the floor space used for the primary business;
- (b) The amount of investment in the operation of the slot machines as compared to the amount of investment in the primary business;
- (c) The amount of time required to manage or operate the slot machines as compared to the amount of time required to manage or operate the primary business;
- (d) ~~The revenue generated by the slot machines as compared to the revenue generated by the primary business;~~
- (~~e~~) Whether a substantial portion of the financing for the creation of the business has been provided in exchange for the right to operate slot machines on the premises;
- (~~f~~) (e) Other factors, including but not limited to the establishment's name, the establishment's marketing practices, the public's perception of the business, and the relationship of the slot machines to the primary business; and
- (f) What other amenities the applicant offers to its customers;"

Golden also urges the Control Board and Commission to use 3.015.12 (proposed 3.015.10) when reviewing new license applications for existing locations. The "nature and quality" of the primary business is certainly changing when the "tavern lite" model is being introduced in place of the traditional model. While this regulation places this authority in the hands of the Board Chairman, when an applicant avails itself of the application process, we believe it is appropriate for this to be reviewed. That said, we do not favor revising this section to require all non-licensing changes to go before the Commission.

Finally, Golden Gaming continues to be in a state of confusion as to restricted language as proposed by several different jurisdictions in the State. We have seen language from the county, the State, and now, Henderson. We feel that if language is not compromised in some

way, our company will have no choice but to convert many of its wholly owned PT's and recent acquisitions to the "tavern lite" model. With this conversion, our company would be forced to lay off hundreds of employees and cut off vendors who supply us with our food and beverage, but this may be the only alternative for some of our locations to remain open and competitive.

In summary, Golden Gaming asks the Commission to consider our independent position as one of a compromise. Our proposal allows all operators to continue to apply for, and receive, gaming licenses by simply following a "common sense" approach. It also allows the traditional tavern model to continue to be a viable option for operators.

Sincerely,



Stephen A. Arcana
Chief Operating Officer

cc: Peter C. Bernhard, Commission Chairman
John Moran, Commissioner
Tony Alamo, M.D., Commissioner
Joe Brown, Commissioner
Randolph Townsend, Commissioner
A.G. Burnett, Board Chairman
Shawn Reid, Board Member
Terry Johnson, Board Member



July 19, 2013

Ms. Sally Elloyan, Executive Secretary
Nevada Gaming Commission
555 East Washington Avenue
Suite 2600
Las Vegas, NV 89119

RE: Nevada Resort Association's Comments to Proposed Amendments to Regulation 3.015

Dear Ms. Elloyan,

Pursuant to the Notice of Public Workshop (No. 2013-50) dated July 8, 2013, please accept this letter as the Nevada Resort Association's (NRA) written comments regarding the proposed revisions to Nevada Gaming Commission Regulation 3.015. As the Notice provides, the proposed changes are required to comply with the provisions of Assembly Bill 360 and Senate Bill 416 adopted during the 77th Session of the Nevada State Legislature. These bills, as you know, further defined the policies governing both restricted and nonrestricted gaming operations in our state. As such, the NRA generally agrees with these changes that have been set forth in the draft dated June 21, 2013. However, we would like to suggest the following additional revisions to subsections 1 and 2 and renumbered subsection 10, as well as the addition of a new subsection 12:

3015 Application for restricted licenses.

1. An application for a restricted license ~~may only~~ shall not be granted ~~if~~ unless the operation of slot machines is incidental to the primary business conducted at the location and the board and commission determine the location is suitable for the conduct of gaming and the applicant meets the requirements of this Section.

2. ~~Except as required in subsection (h), in~~ in recommending and determining whether the applicant's proposed ~~restricted~~ location is suitable for the conduct of restricted gaming and meets the requirements of this Section, the board and commission ~~may~~ shall consider some or all of the following factors:

...

~~—12. (10.) It is an unsuitable method of operation to materially change the nature and quality of the primary business after the commission has granted a restricted gaming license to conduct gaming at an establishment, without the prior administrative approval of the board chairman or~~

P.O. BOX 81526, LAS VEGAS, NV 89180-1526
PHONE: (702) 735-4888 FAX: (702) 735-4620

~~his designee~~ commission. A material change in the nature and quality of the primary business is presumed to occur if:

...

12. Nothing in this section shall be construed to limit the authority of a local government to impose additional requirements for the issuance of a restricted gaming license.

Thank you for the opportunity to provide comments. Additionally, we would appreciate that the related record before the Commission set forth a statement of intent. Specifically, the record should reflect that a restricted gaming license shall not be issued unless such slot operations are "incidental" to the primary business as has been the long established cornerstone of the Nevada Gaming Control Act (as codified in NRS 463.0189 and NRS 463.161). Moreover, the record should reflect that this policy continues to apply throughout the state. If you should have questions, do not hesitate to contact me.

Sincerely,



Virginia Valentine
President
Nevada Resort Association

cc: Peter C. Bernhard, Commission Chairman
John Moran, Commissioner
Tony Alamo, M.D., Commissioner
Joe Brown, Commissioner
Randolph Townsend, Commissioner
A.G. Burnett, Board Chairman
Shawn Reid, Board Member
Terry Johnson, Board Member



June 18, 2013

Ms. Sally Elloyan
Board Secretary
Nevada Gaming Commission
555 East Washington Avenue, Suite 2600
Las Vegas, NV 89101

RE: June 20, 2013 Hearing on Regulation 3.015

Dear Ms. Elloyan,

I am writing today on behalf of the Nevada Resort Association (NRA) regarding the hearing on Regulation 3.015 scheduled for June 20, 2013. I apologize for not commenting sooner, but was under the impression that any proposed changes would be posted in advance of the hearing on the Commission's website. Seeing no specific proposals, I would like to express our interest in discussion at the hearing and any proposals that may be directed as a result of the commission's direction at the hearing.

As the hearing is noticed and posted for action, we would like to request that no changes be made without providing for a reasonable time for industry review. This particular regulation has been the subject of several discussions by gaming regulators, by the state legislature and local governments. The recent passage of SB 416 may have implications on the discussion carried over from the May 2013 commission meeting and should also be considered.

Thank you in advance for the opportunity to comment.

Sincerely,


Virginia Valentine
President, Nevada Resort Association

cc: Commissioner Peter C. Bernhard, Chairman
Commissioner Tony Alamo, M.D.
Commissioner John Moran, Jr.
Commissioner Joseph W. Brown
Commissioner Randolph Townsend
A.G. Burnett, GCB Chairman
Shawn R. Reid, GCB Member
Terry Johnson, GCB Member

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October 22, 2013



Via E-Mail

Chairman Peter Bernhard
Nevada Gaming Commission
1919 College Parkway
PO Box 8003
Carson City, NV 89702

Dear Chairman Bernhard and Commissioners:

As the owner and operator of 6 Restricted Taverns and soon a 7th location, I am writing to express my concerns over the Proposed Amendments to Regulation 3.015 that will be held before the Commission on October 24, 2013.

It is my understanding that the Proposed Amendments if enacted would impose further restrictions and hardship on the Restricted Tavern industry. This action would only serve to further restrict free enterprise by one more governmental agency.

The Restricted Tavern industry has been operating for 3 decades under regulations that loosely defined gaming as an incidental activity to the Tavern business itself. During this period of time, economic and changing market conditions as well as regulatory changes and outside competition (restaurant industry) have impacted the Restricted Tavern industry to a great extent. Just looking at the landscape around the Las Vegas valley easily tells a story of many Tavern failures, undercapitalized operations and changed business models. Business model adjustments can come in many ways....downsizing space, adding or dropping food service, shorting business hours, reducing staff levels, renegotiating rents, eliminating bars, adding themes, etc.

The most recent changes to the Restricted Regulation 3.015 that became effective in 2011 pushed the industry further into a corner by dictating space requirements, bar requirements, additional zoning requirements and type of food services to be offered. The impact and effects of these changes radically increased the cost of conducting business.

For free enterprise to work, businesses must be free to reinvent themselves to succeed....the free market place will determine who succeeds and fails. This has been demonstrated over and over with the non-Restricted Gaming industry. Just look at how the major Casino industry has evolved in the last 20 years to financially succeed....massive themed resorts, world class entertainment, world class restaurants and over the top buffets, shopping, night clubs, party pools and now we will soon have the world's largest ferris wheel coming to Las Vegas.

Chairman Bernhard
October 22, 2013
Page 2

Please don't lose sight of the fact that the Restricted Tavern industry is restricted to only 15 gaming machines. It's very difficult to understand how it is even possible for such a small segment of the gaming industry to have any impact on the massive non-Restricted Casino industry. ***Like many businesses, the Restricted Tavern industry should have every right to "reinvent itself" to succeed and grow as market conditions dictate. Regulations should not be used to hamper or restrict creative business ideas or opportunities.***

I strongly implore the Commission to eliminate the term "incidental" from the current regulation and to oppose any further changes to Regulation 3.015 that would result in further restrictions on the Restricted Tavern industry.

Sincerely,



Phil Bracamonte
Managing Member
Miz Lola's Spirits & Gaming

CC: Nevada Restricted Gaming Association

My name is Joan Morris and I have been in business for 20 years as Owner/Operator of Rae's Restaurant & Lounge, 2531 Wigwam Pkwy, Henderson NV 89074. I am a restricted gaming licensee as well as an alcoholic beverage licensee in the City of Henderson.

- My facility is set up for a physical separation of the bar from the rest of the restaurant.
- I serve breakfast, lunch and dinner with a full menu.
- I spend significant time at the location virtually every day, and I've developed a personal relationship with many of our patrons.
- Some of our patrons enjoy only the food and beverages served in the restaurant, others enjoy the gaming aspect of the operation, and many others enjoy aspects of the amenities offered. "Rae's is a little bit country & a little bit rock & roll."
- Over the years I have had to make additional investments in the location to comply with various changes to codes and regulations. My cost to comply with the Nevada Clean Air Act was \$89,900 which was a hardship on my small business. After complying we immediately experienced a major decrease in food sales as the required separation of our lounge/dining area not only physically separated the diners from the bar area but also the entire tavern atmosphere. Then we felt the impact of the recession about a year later which our revenues decreased substantially. We have never recovered.
- The patron is the one who eventually makes their own decision on how they want to spend their discretionary income, be it on gaming, food or some combination thereof. Other than making Rae's a very approachable place to come to, there is very little that can be done to influence the way customers spend their money.
- To be clear, gaming is a significant component of my operations, but that is simply a reflection of decisions made by my long time customers. Some of the proposals that are being bantered around would seem to me an attempt to some of the largest gaming operators in the state simply trying to squash the little guy (or gal) who are trying to operate small businesses, create employment, and satisfy lenders, and landlords. The concept that I could potentially have games removed solely as a result of my success as a small business owner, seems almost un-American to me.
- It appears to me that the legislature is prepared to study this issue through the interim committee, and I believe that is a reasonable thing to do, and respectfully suggest that the existing regulations remain as they are for now. I appeal to the commission and the voices of reason not to devalue my business.

Respectfully,

Joan Morris

May 30, 2013

Via e-mail and regular mail

Chairman Pete Bernhard
Chairman, Nevada Gaming Commission
555 E. Washington Blvd., Suite 2600
Las Vegas, Nevada 89101

RE: Proposed amendments to Regulation 3.105

Chairman Bernhard:

I represent the Nevada Restricted Gaming Association, which represents over 1400 of the states 1900 restricted locations. Many of my members may be affected by the Interpretation of 3.015. I attended the Gaming Commission hearing in May as I wanted to comment on the Commission's discussion regarding the grandfathering applications of certain provisions of 3.105.2(h) to establishments opened prior to August 25, 2011. The hearing portion was not open to public comment and unfortunately, after sitting until 4:45, I had to leave to attend a legislative hearing. After listening to the Commissioners insightful discussion, I thought I should share my thoughts on this matter.

A Restricted license is specifically limited by Statute (NRS 463.0189) to no more than 15 slot machines. Any number of gaming devices between 1-15 would be authorized by State law under that category. Therefore, there is no reason to use the addition of up to the 15 machine limit as the basis to deny a nonconforming status. The only references to enlargement of the licensee's operations during the calendar year are in NRS 463.380 (3) and NRS 463.308(3). These Statutes provides that "after a licensee's application (for an increase) is approved" the licensee must pay the full annual fee for those games the licensee desires. The Statute presumes an "application" for an increase, an "approval" and thereafter payment of the requisite fees("consideration"). In other words, there would be a formal contract between the licensee and the Board modifying the initial approval of fewer than 15 machines.

In NRS 463.308(3), the Legislature also acted to prevent an expansion of a nonrestricted license which was grandfathered, based upon its licensing prior to December 31, 1996. Under these circumstances, the grandfathered location would be fixed to that maximum as a condition for its protection against subsequently enhanced entry requirements. That limitation became the extent of nonconforming location's "property right."

The mere increasing and decreasing of gaming devise within the statutorily granted limits should not give rise to the potential loss of the grandfathering rights. I participated in your delliberations on these matters in 2011 and I am not sure the intent, nor the regulation ultimately passed, makes the grandfather rights forfeit upon the increase in the number of gaming devices in a tavern. However, I understand how it may be read in that manner. Most importantly, an increase in the number of games in no way materially changes the nature of the business.

This issue has the potential to affect 195 of my member locations therefore requiring each of these locations to go thru the waiver process which I believe is an unnecessary burden on both the licensee and the Gaming Control Board staff. There is also the potential that a licensee may inadvertently lose his rights to continue to operate or freely transfer his assets. Any waiver must show that it is consistent with Nevada public policy, and I while I assume there is public policy not to alienate these businessman's asset, it is still a hoop that I believe is unnecessary.

A much cleaner and more efficient manner to rectify this situation is to simply remove this test as one of the factors in determining whether these older locations must meet the requirements of 3.015.2(h).

I am confident that the Commissioners did not intend to require tavern establishments which have, in some case, been in existence for 20 to 30 years, to add square footage and a kitchen should they simply increase the number of games they operate from 8 to 10 or 11, or even 15, so long as the nature of their business does not change. I have attached potential language which I believes accomplishes the goal of protecting long operating establishments, while allowing the Commission to retain control over establishments when they materially later the primary business.

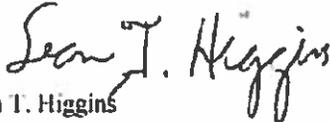
~~“(a) Subsections 2(h), 3 and 7 do not apply to an establishment for which a restricted license was granted by the commission by February 1, 2000, provided that the establishment does not cease gaming operations for a period of more than 12 months or, upon the administrative approval of the chairman of the board, for a period of not more than 24 months, and that the nature and quality of the primary business of the establishment has not materially changed, and that the number of slot machines operated at the establishment has not been increased;~~

~~(b) Subsections 2(h)(2) and 2 (h)(4) do not apply to any Subsection 3(a) establishment for which a restricted license was granted by the commission on or before August 25, 2011, provided that the establishment does not cease gaming operations for a period of more than 12 months or, upon the administrative approval of the chairman of the board, for a period of not more than 24 months, and that the nature and quality of the primary business of the establishment has not materially changed, and that the number of slot machines operated at the establishment has not been increased;~~

I will be out of the country on June 20, the date of your next hearing, but my partner Jeff Silver, will attend on behalf of the NRGA. I would be happy to meet with you and any of your other Commissioners prior to the hearing to discuss further.

Please feel free to contact me if you wish to discuss further prior to the hearing. My cell number is 702-327-0295.

Sincerely,



Sean T. Higgins

Cc: Commissioner John Moran
Commissioner Tony Alamo
Commissioner Joseph Brown
Commissioner Randolph Townsend
GCB Chairman AG Burnett
GCB Member Shawn Reid
GCB Member Terry Johnson

REBATES ON WAGERS

STATUTES:

NRS 464.075 Altering value of wager for patron prohibited; regulations; exemptions.

1. Except as otherwise provided in subsection 4, a person who is licensed to engage in off-track pari-mutuel wagering shall not:

- (a) Accept from a patron less than the full face value of an off-track pari-mutuel wager;
- (b) Agree to refund or rebate to a patron any portion or percentage of the full face value of an off-track pari-mutuel wager; or
- (c) Increase the payoff of, or pay a bonus on, a winning off-track pari-mutuel wager.

2. A person who is licensed to engage in off-track pari-mutuel wagering and who:

- (a) Attempts to evade the provisions of subsection 1 by offering to a patron a wager that is not posted and offered to all patrons; or
- (b) Otherwise violates the provisions of subsection 1,

↪ is subject to the investigatory and disciplinary proceedings that are set forth in [NRS 463.310 to 463.318](#), inclusive, and shall be punished as provided in those sections.

3. The Nevada Gaming Commission shall adopt regulations to carry out the provisions of subsections 1 and 2 of this section.

4. The Nevada Gaming Commission may, by regulation, exempt certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 if the Commission determines that such exemptions are in the best interests of the State of Nevada and licensed gaming in this state. Any bets, refunds, rebates, payoffs or bonuses that would result in the amount of such bets, refunds, rebates, payoffs or bonuses being directly or indirectly deductible from gross revenue may not be exempt.

(Added to NRS by [1997, 3316](#); A [2003, 3409](#))

NGC REGULATIONS:

22.125 Wagers; terms and conditions.

1. No book shall:

- (a) Accept from a patron, directly or indirectly, less than the full face value of an off-track pari-mutuel wager;
- (b) Agree to refund or rebate to a patron any portion or percentage of the full face value of an off-track pari-mutuel wager; or
- (c) Increase the payoff of, or pay a bonus on, a winning off-track pari-mutuel wager.

The provisions of this subsection do not prohibit the granting of room, food, beverage or entertainment admission complimentaries.

2. A book shall not, in an attempt to provide a benefit to the patron in violation of subsection 1, offer a wagering proposition, or set or move its wagering odds, lines or limits.

3. The chairman may require a book to:

- (a) Disclose its betting limits in its house rules and obtain approval from the chairman before changing those limits or modifying its house rules; and
- (b) Document and report, in such manner as the chairman may approve or require, wagering limits, temporary changes to such limits, or the acceptance of a wager or series of wagers from the same patron that exceeds such limits. The report may include, but is not limited to:

- (1) Recording the name of the patron for which betting limits are changed or exceeded;
- (2) Recording the name of the employee approving the acceptance of a wager that exceeds betting limits or causes a change in betting limits;
- (3) Describing the nature of the temporary change and any related wagers; and
- (4) Describing how the temporary change in limit will benefit the licensee.

The chairman shall notify the book, in writing, of the decision to impose such requirements and such decision shall be considered an administrative decision and, therefore, reviewable pursuant to the procedures set forth in Regulations 4.185, 4.190 and 4.195.

4. A book shall not set lines or odds, or offer wagering propositions, designed for the purpose of ensuring that a patron will win a wager or series of wagers.

(Adopted: 12/98. Effective: 1/1/99. Amended 9/05.)

SB 425:

Existing law prohibits a person who is licensed to engage in off-track parimutuel wagering from: (1) accepting less than the full face value of an off-track pari-mutuel wager; (2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or (3) increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager. (NRS 464.075) This bill requires the Nevada Gaming Commission to study and review issues relating to the offering of rebates on pari-mutuel wagers, including the feasibility of: (1) accepting less than the full face value of an off-track pari-mutuel wager; (2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track parimutuel wager; and (3) increasing the payoff of or paying a bonus on a winning offtrack pari-mutuel wager. This bill further requires the Commission to adopt regulations exempting certain bets, refunds, rebates, payoffs or bonuses relating to off-track pari-mutuel wagering from the current prohibition under state law if, after studying and reviewing the issue, the Commission determines that it is in the best interests of this State and licensed gaming in this State.

1. Not later than January 1, 2014, the Nevada Gaming Commission shall study and review issues relating to the offering of rebates on pari-mutuel wagers. The Commission shall evaluate the feasibility of:
(a) Accepting less than the full value of an off-track pari-mutuel wager;
(b) Agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or
(c) Increasing the payoff of or paying a bonus on a winning offtrack pari-mutuel wager.

2. If the Commission determines that exempting certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 of NRS 464.075:

(a) Is in the best interests of the State and licensed gaming in this State, the Commission shall adopt regulations pursuant to subsection 4 of NRS 464.075 not later than April 1, 2014.

(b) Is not in the best interests of the State and licensed gaming in this State, the Commission shall, following the conclusion of the Commission's study and review, report its findings at the next regularly scheduled meeting of the Legislative Commission.



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

5420 Kietzke Lane, Suite 202
Reno, Nevada 89511

CATHERINE CORTEZ MASTO
Attorney General

KEITH G. MUNRO
Assistant Attorney General
GREGORY M. SMITH
Chief of Staff

MEMORANDUM

Date: October 10, 2013

To: Peter C. Bernhard, Chairman
Tony Alamo, Commissioner
Joseph W. Brown, Commissioner
John Moran, Commissioner
Randolph Townsend, Commissioner
Nevada Gaming Commission

From: *JSM* John S. Michela, Senior Deputy Attorney General

Through: A.G. Burnett, Chairman
Shawn R. Reid, Member
Terry Johnson, Member
State Gaming Control Board

Subject: Board Analysis of the Pros, Cons, and Staff Impact Concerning
the Authorization of Off-Track Pari-Mutuel Rebates

~~CONFIDENTIAL~~ *Waived 10/11/2013*
ATTORNEY/CLIENT COMMUNICATION *JST*

On August 22, 2013, Chairman Bernhard requested an analysis from the Gaming Control Board (Board) concerning the pros, cons, and staff impact concerning the authorization of off-track pari-mutuel rebates. Chairman Burnett designated me as the point person for response from the Board's Audit Division (Audit) and Enforcement Division (Enforcement). On October 10, 2013, Chairman Burnett requested that I provide this memorandum to the Nevada Gaming Commission (Commission).

Audit views the issue of whether or not the Commission should authorize rebates for off-track pari-mutuel wagering as a business decision which properly belongs to the industry. Cantor views being able to offer rebates as something which will increase the handle for pari-mutuel wagering, and, thus, state revenue will increase as well. The

Nevada Pari-Mutuel Association (NPMA) believes allowing rebates will lead to increased track fees and lead to lower profits for many books.

Audit views the staff impact of off-track pari-mutuel rebates as minimal. All active off-track pari-mutuel contracts would need to be amended, and Audit would have to review and approve the amendments. Audit would also have to modify some of its procedures based on the regulation changes. However, Audit does not view these as significant issues. Audit also notes that rebates (promotions) are not new to the industry as rebates are allowed in all areas other than off-track pari-mutuel wagering.

Enforcement acknowledges the NPMA concern that allowing rebates could put the smaller race books out of business. Enforcement is concerned that if this happens, a monopoly could be created in the state with regard to off-track pari-mutuel wagering.

Enforcement is also concerned with the fairness of rebates. That is, a book would not be bound by any rules with regard to which people it gives rebates. Enforcement notes that in the past this has led to books giving rebates only to suspect bettors (i.e., messengers and/or money launderers) who wagered large amounts of money with the book.

In short, Audit is of the opinion that the industry should decide whether or not rebates should be authorized, and Enforcement is of the opinion that authorizing rebates should be approached with caution.

JSM:mkm

Senate Bill No. 425–Committee on Judiciary

CHAPTER.....

AN ACT relating to gaming; requiring the Nevada Gaming Commission to study and review certain issues relating to pari-mutuel wagering; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits a person who is licensed to engage in off-track pari-mutuel wagering from: (1) accepting less than the full face value of an off-track pari-mutuel wager; (2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or (3) increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager. (NRS 464.075) This bill requires the Nevada Gaming Commission to study and review issues relating to the offering of rebates on pari-mutuel wagers, including the feasibility of: (1) accepting less than the full face value of an off-track pari-mutuel wager; (2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; and (3) increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager. This bill further requires the Commission to adopt regulations exempting certain bets, refunds, rebates, payoffs or bonuses relating to off-track pari-mutuel wagering from the current prohibition under state law if, after studying and reviewing the issue, the Commission determines that it is in the best interests of this State and licensed gaming in this State.

EXPLANATION – Matter in *bolded italics* is new, matter between brackets ~~{omitted material}~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Sections 1-3. (Deleted by amendment.)

Sec. 3.5. 1. Not later than January 1, 2014, the Nevada Gaming Commission shall study and review issues relating to the offering of rebates on pari-mutuel wagers. The Commission shall evaluate the feasibility of:

(a) Accepting less than the full value of an off-track pari-mutuel wager;

(b) Agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or

(c) Increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager.

2. If the Commission determines that exempting certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 of NRS 464.075:

(a) Is in the best interests of the State and licensed gaming in this State, the Commission shall adopt regulations pursuant to subsection 4 of NRS 464.075 not later than April 1, 2014.



(b) Is not in the best interests of the State and licensed gaming in this State, the Commission shall, following the conclusion of the Commission's study and review, report its findings at the next regularly scheduled meeting of the Legislative Commission.

Sec. 4. This act becomes effective upon passage and approval.





john avello
executive director, race & sports book
direct dial: (702) 770-3072
e-mail: john.avello@wynnlasvegas.com

August 9, 2013

Office of the Executive Secretary
Nevada Gaming Commission
1919 College Parkway
PO Box 8003
Carson City, NV 89702



The Nevada Gaming Commission has requested comments regarding the offering of rebates or other cash inducements on Pari-Mutuel wagers in connection with a Commission study mandated by recent legislation passed by the Nevada legislature. Wynn Las Vegas is aware that the Nevada Pari-Mutuel Association has responded to the Commission's request for comments and we are in support of the position set forth in the Association's letter to the Commission. However, Wynn Las Vegas also believes that it is important that it submit a separate letter as the operator of a Nevada racing book. Accordingly for the reasons set forth herein, Wynn Las Vegas strongly opposes the offering of rebates or other cash inducements on Pari-Mutuel wagers and respectfully urges that the Commission not take any action that could lead to changes in the current Pari-Mutuel program in Nevada.

Major racetracks throughout the United States and Canada offer their racing signals and the right to co-mingle wagers into their Pari-Mutuel wagering pools to Nevada Gaming Licensees, racetracks, other casinos, off-track betting parlors and advanced deposit wagering outlets for estimated fees ranging from a low of 3% for track to track transmissions and as high as 10% for outlets commonly known as "Discount Houses".

Nevada Race Books for 2012 enjoyed a highly competitive blended fee structure of only 4.01%. This beneficial fee structure was extended to Nevada Race Books and generally not offered to other Pari-Mutuel wagering outlets throughout the rest of the country, primarily due to the following factors unique to Nevada:

1. Most major simulcast and Pari-Mutuel agreements between the Nevada Pari-Mutuel Association and tracks prohibit discounts.
2. The Nevada Pari-Mutuel Association exercises pricing leverage as it acts as a single unit on behalf of all Nevada Race Books in negotiating fees.

3. Nevada Race Books are unique in that without a Pari-Mutuel agreement they are positioned to exclude wagers from a race track's wagering pool by booking race wagers themselves.

Although Nevada books still would maintain a limited degree of bargaining leverage (although waning) from points 2 and 3 above, our rate negotiation position would be significantly diminished if we were allowed to offer discounts as the tracks would then view us as a competitor on a national scale. If Nevada permits discounts on Pari-Mutuel wagering, then, in response the racetracks would automatically increase fees charged by a significant factor. Furthermore, we believe that any incremental handle attributable to a discount policy will be insufficient to cover the incremental costs associated with the newly introduced discounts and increased track fees.

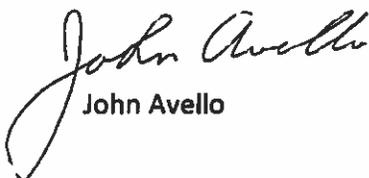
Race handle throughout the country has been in rapid decline. The sport's popularity is a shadow from its heyday of 50 years ago. Competitive gaming products introduced throughout the last 40 years have continued to dilute the portion of legal gaming dollars directed to racing. Furthermore, the sport continually fails to attract newer and younger fans to replace the typical older customer. Sadly, racing's customer base is literally "dying off". Reflective of this, racetracks throughout the country continue to close on a regular basis. We believe that a state wide discount program is a desperate misguided attempt to try and maintain handle in an already seriously depressed market and may accelerate the decline of race books.

Further, Wynn Las Vegas and the other Nevada race books are better positioned to continue to service the visitors to Nevada at a reasonable profit margin instead of jeopardizing existing profitability by chasing a few individual or syndicated professional race handicappers at minimal or non-existent profitability levels.

Unfortunately, Nevada's race handle and profitability will probably continue to decline in the years ahead. However, this is a result of a severely wounded race industry and not because of Nevada's existing prohibition against race discounts.

Wynn Las Vegas representatives are available to further discuss this matter with you at your convenience.

Best regards,


John Avello

FAX COVER SHEET

DATE: August 9, 2013

TO: Office of the Executive Secretary
Nevada Gaming Commission
775-687-8221

FROM: Gregory Wright – COO & CFO
Vincent Magliulo – VP
Las Vegas Dissemination Company

RE: Notice of Request for Comments and Notice of Public Workshop

Good Afternoon – Please find attached comments relating to the offering of rebates on pari-mutuel wagers (Notice 2013-56).

If you have any questions, please feel free to reach either of us at 702-739-8781.

Thank you



August 9, 2013

Office of the Executive Secretary
Nevada Gaming Commission
1919 College Parkway
P.O. Box 8003
Carson City, NV 89702

Re: Notice of request for comments and workshop on issues relating to the offering of rebates on pari-mutuel wagers (Notice 2013-56)

Based on current rebate practices in the pari-mutuel industry, both national and international, along with the past rebate practices in Nevada, it is the position of Las Vegas Dissemination Company that it is feasible and necessary for Nevada pari-mutuel books to have the flexibility of 1) accepting less than the full value of an off-track pari-mutuel wager, 2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager, and 3) increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager.

Nevada was at the forefront of rebating in the mid 1990's. By giving back a portion of their commission to the customers (rebate), the annual Nevada pari-mutuel handle grew to over \$600,000,000. The increase of handle came from a small number of the Nevada pari-mutuel books. With regulatory guidelines, each property could decide whether to rebate and the extent of the rebates.

Since the banishment of rebates in Nevada, rebating has become a multi-billion dollar business. Based on the off-track pari-mutuel rebate model created in Nevada in the 90's, the rest of the world has accepted the rebate practice. In the last five years on-line betting sites and race tracks have begun offering rebates to their customers. In that time Nevada's pari-mutuel handle declined to approximately \$337,000,000 in 2012. In 2013, the pari-mutuel handle is down approximately 7% year-to-date. There is a direct correlation of the declining Nevada handle and the growth of betting outlets that offer rebates. Nevada's race handle has continued to decline as pari-mutuel rebates and account wagering expand in other jurisdictions.

Without rebates, Nevada is at a competitive disadvantage with the rest of the pari-mutuel race industry. In the past, Nevada has overcome competitive disadvantages, such as the change of off-time as post-time through regulatory changes. Over the years many customers have inquired about rebates at Nevada books only to be declined. Many rebates players will "churn" their money, benefiting properties, patrons and the state. There is a very strong probability that rebates and/or incentives received by the patrons will be bet back thus increasing the handle. Rebates would be well received by current patrons and could help create new patrons.

August 8, 2013

Via Electronic Mail

Office of the Executive Secretary
Nevada Gaming Commission
1919 College Parkway
P.O. Box 8003
Carson City, NV 89702
Fax 775-687-8221
afralick@gcb.nv.gov

**Re: COMMENTS ON ISSUES RELATING TO THE OFFERING OF
REBATES ON PARI-MUTUEL WAGERS**

To Whom it May Concern:

I represent the Nevada Pari-Mutuel Association (“NPMA”). The Nevada Pari-Mutuel Association is a Nevada non-profit corporation comprising 83 race books licensed to conduct pari-mutuel wagering in Nevada and represents the interests of its members in regulatory and public affairs. This letter responds to the Nevada Gaming Commission’s (“Commission”) request for initial comments regarding the offering of rebates,¹ or similar incentives, on pari-mutuel wagers to aid the Commission’s study and review of the issue as required by Section 3.5 of Senate Bill 425 of the 77th Legislative Session. We intend to provide more detailed evidence and testimony at the scheduled Commission hearing.

Let me first start with a historical perspective of horse racing and rebates because of its importance to understanding the issue.

Horse race wagering in Nevada has always been a tightly regulated activity both for oversight and price regulation. This is because the industry depends on others for the product—Nevada has essentially no in-state horse racing²—and for the delivery of that product by wire and television into Nevada. Virtually every aspect of the industry is price controlled. Our books must adhere to the same commission schedule as the track. This is about 19.5% of each wager. Each book must pay the same fee to the track, typically about 4.01% on each wager. It also pays

¹ A rebate is a cash reward paid on every wager a player makes, win or lose. The amount of the reward can vary based on several factors, including bet type.

² The Elko County Fair does include seven days of horse racing.

the same fees to others such as Las Vegas Dissemination Service, the monopoly provider of hub services. What little remains of the 19.5% after paying track fees, dissemination fees, employee costs and other expenses is the book's gross profit.

Rebates occur when a portion of the 19.5% is returned to the player. These are most associated with electronic clearing houses with low overhead because they do not have the employee and facility costs associated with a physical race book. If the race wagers were simply a commodity, it would be the equivalent of Amazon.com to the neighborhood book store.

The history of the prohibition against rebates in Nevada dates to 1996. At that time, the California racetracks refused to enter into an agreement with the Nevada race books to allow either common pari-mutuel pooling or simulcasting of their races because Nevada permitted rebates on their races. The Nevada books offering rebates resulted in players from California coming to Nevada to place bets on California races rather than going to the tracks. This made no economic sense to California. Why should they permit Nevada race books to offer their races when all we were doing was cannibalizing their patrons? California therefore initiated a blackout of any California races being shown in the State of Nevada that decimated our revenues.

The Nevada Legislature ultimately broke that deadlock after seven months by passing Nevada Revised Statute ("NRS") 464.075, which prohibited rebates unless permitted by regulation adopted by the Commission.³ NRS 464.075(4) provides that the Commission may, by regulation, exempt certain bets, refunds, rebates, payoffs or bonuses from section 464.075(1) if the Commission determines such exemptions are in the best interests of Nevada and licensed

³ NRS 464.075 **Altering value of wager for patron prohibited; regulations; exemptions.**

1. Except as otherwise provided in subsection 4, a person who is licensed to engage in off-track pari-mutuel wagering shall not:

(a) Accept from a patron less than the full face value of an off-track pari-mutuel wager;

(b) Agree to refund or rebate to a patron any portion or percentage of the full face value of an off-track pari-mutuel wager; or

(c) Increase the payoff of, or pay a bonus on, a winning off-track pari-mutuel wager.

2. A person who is licensed to engage in off-track pari-mutuel wagering and who:

(a) Attempts to evade the provisions of subsection 1 by offering to a patron a wager that is not posted and offered to all patrons; or

(b) Otherwise violates the provisions of subsection 1,

↪ is subject to the investigatory and disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and shall be punished as provided in those sections.

3. The Nevada Gaming Commission shall adopt regulations to carry out the provisions of subsections 1 and 2 of this section.

4. *The Nevada Gaming Commission may, by regulation, exempt certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 if the Commission determines that such exemptions are in the best interests of the State of Nevada and licensed gaming in this state. Any bets, refunds, rebates, payoffs or bonuses that would result in the amount of such bets, refunds, rebates, payoffs or bonuses being directly or indirectly deductible from gross revenue may not be exempt.*
(Emphasis added).

gaming in this state. This law provided enough assurance that California permitted their races to go live again in Nevada.

The Nevada Legislature has now instructed the Commission to study and review issues relating to the offering of rebates, or similar incentives, on pari-mutuel wagers in consideration of adopting regulations under NRS 464.075(4). As part of this process, the Commission has sought public comment and concerns from the industry regarding rebates.

Rebates are controversial because large computer bettors will place their wagers with the off-track betting (“OTB”) facility that gives the largest rebates. This naturally draws the players away from the track. Track attendance has plummeted. To make up for the lost track revenues, tracks are charging higher simulcast fees and imposing source market fees on ADW rebate wagers providers. A source market fees requires the OTB to pay extra for players located in the same state or geographic location of the track. These higher fees further reduce the already limited revenues for race books and negate the benefits of the increased handle that might accompany rebates.

This presumes tracks are even willing to enter into an agreement with Nevada race books if rebates are again offered. As noted above, in 1996, California tracks shut off the television signal to Nevada for seven months until we agreed not to give rebates. No assurances can be given that rebates will not be an issue in future contracts with out-of-state tracks—as it was with California—or that an out-of-state track will not again shut off the television signal to Nevada if rebates are considered.

Rebates therefore need to be explored from many perspectives.

Rebates will cause rates our books pay to out of state tracks to escalate.

The NPMA has made inquiries to representatives of the major racetracks to determine what the likely increase would be in simulcast fees and/or simulcast market fees if rebates were authorized and the prohibition of rebate language and prohibition of account wagering language were removed from the contracts. Assuming that out-of-state track will not again shut off the television signal to Nevada but will continue to provide it, the NPMA has been advised the host fee/track fee for rebate ADW wagers would be 7-9%, an increase of 3-4% for these wagers. The NPMA also has been advised that a source market fee of 5% on ADW rebate wagers taken from residents of California and New York would be implemented.

Among the largest groups of race tracks that negotiate with the NPMA is Churchill Downs. Churchill Downs, like many of the other larger groups, has its own ADW company, i.e., Twin Spires. These groups would likely demand a high simulcast fee to prevent Nevada race books from competing with them in the ADW rebate market, thereby, further raising costs for Nevada race books if rebates, or similar incentives, are authorized.

Nevada race books cannot compete with rebate houses.

Even if rebates are permitted and regulated, the NPMA does not believe Nevada race books could successfully compete with the rebate houses. Rebate houses operate on margins as low as 1% and pay the rest of the amounts they receive as “hold” from the track back to the track as a simulcast fee and/or host fee and as a rebate to the player. This is due, in part, on such rebate houses operating with much less regulatory and other overhead items, which Nevada sports book cannot eliminate.

Besides having higher regulatory costs, virtually every aspect of the Nevada race book service is price controlled. Our books must adhere to the same commission schedule as the track, which is about 19.5% of each wager. Each book must pay the same fee to the track, typically about 4.01% of each wager. It also pays the same fees to others such as Las Vegas Dissemination Service, the monopoly provider of hub services. Nevada race books therefore do not control their revenue and costs and thus do not control their profits. Further hindering our ability to compete with rebate houses is the inability to deduct the amounts paid as rebates from the gross gaming revenue generated from the race wagering.

Compare this to ADW’s that have no bricks and mortar components, limited regulation and a “tax” in Oregon for those who are licensed there of only .25% of the handle (in contrast, assuming Nevada race books hold 19.5% of the wagers made, our “tax” is around 1.31% of the handle—or about five times that of Oregon), it is apparent that Nevada race books have an inherent economic disadvantage that eliminates any ability to realistically compete with rebate houses.

Rebates will change the fundamental nature of the industry.

Historically, the market for Nevada race books is tourists and some locals—the traditional horse players that love the sport. Nevada offers these race books for the convenience of its players. The industry does not make a lot of money off of its books. In fact, the average win per book is small. The average book in Nevada won over \$1.2 million in 2005. Last year that number tumbled to under \$700,000.

Let’s suppose you are an average book, and you now have \$691,000 in gross win and about \$641,000 annually after paying your gaming taxes. You still must pay, among other things, your: Employees - race book manager, writers, and others; Track Fees; Systems Operator Fees; Fixed Wire Fees; Equipment Charges - terminals, printers, large screen televisions, electronic boards, wallboards; and Comps. This is not a segment of the industry flush with cash or a healthy bottom line but operates on a thin margin. Both the NPMA and the operators know this.

The NPMA and the operators also know when patrons come to Nevada, they want to have an entertainment experience when they bet on sports and horses. This experience makes them stay longer, spend more money in other parts of the casino and return more often.

Accordingly, Nevada has the most modern race books in the world with the best amenities, e.g., big screen TVs, nice chairs, individual monitors, food and beverage services, etc. In short, Nevada race books cater to flesh and blood patrons (called tourists).

Rebates, in contrast, serve a different purpose. Rebates exist to aid Computerized Robotic Wagering ("CRW"). The term CRW was invented in the U.S. horse racing market to describe people who use software and sophisticated algorithms to analyze pools and odds to find mispriced bets and place multiple, direct bets into the tote system immediately prior to a race.

A dichotomy of interests exist between CRW players and flesh and blood patrons. CRW players do not care about the customer experience nor do they care about our tourists. CRW players do not even need a physical book. They just need a place to bet and which provides the best rebates so they can lower their margins. Because computer-driven betting is mostly about covering a high percentage of combinations, the margins are small. For instance, Rob Terry, vice president of Racing and Gaming Services, a CRW company, told horsemen at a conference last year that the company lost 6% in 2011 not factoring in the track discounts. Essentially, CRW is looking to come out ahead by receiving rebates that exceed the 6%.

For Nevada race books to compete in the rebate arena, they must transform themselves from books that cater to tourists to ones that handle large volumes via remote CRW. This changes the nature of what we have been doing in Nevada and will eliminate the customer experience for in-person patrons in most casinos. If the margins shrink further because of rebates moving some customers to the rebate providers many casinos must close their books. Nevada race books will no longer cater to in-person patrons but out-of-state CRW.

Moreover, because computer teams wager such high volumes, they believe they should be heavily compensated by rebates. Many OTB operators have obliged by giving high-volume CRW teams what amounts to be significant rebates. Specifically, since these CRW teams operate as their own Advance Deposit Wagering outfits, the rebate comes in the form of a lower "host fee" for taking the track's signal. For Nevada race books to compete against tracks that deal directly with CRW teams, the books will have to offer very lucrative rebates. Better rebates for CRW, however, equals increased costs for Nevada race books.

Rebates in Nevada therefore may make it economically feasible for only two or three books to survive instead of the 83 now functioning. For Nevada race books to offset the increased costs associated with offering rebates, a large handle is necessary to spread out the costs associated with the rebates and higher fees, e.g., simulcast fees. Smaller race books, including those used by some casinos as a player convenience, do not have a large enough handle and cannot endure these increased costs. This will cause the closure of such books and the heavy loss of jobs.

The Nevada race book industry will therefore be forced to move away from the smaller, amenity and customer service based approach to a model where patrons are left only with one or two large books to choose between. This few remaining books will be large companies that have

huge amounts of volume. Their focus, however, will no longer be the in-person customer experience. Rather, to compete with out-of-state tracks and rebate houses, they will have to focus on cutting costs and streamlining their amenities to offer the best rebates to CRW play.

Ultimately, the question that has to be answered is what is better for Nevada? Many smaller books that employ numerous people and cater to our current patrons—tourists—or large consolidated books that focus on CRW play. If we want to alienate our current patrons and consolidate the industry down to one or two books that serve CRW play, then the move towards rebates is the road we should go down.

Higher rates caused by offering rebates will cause lower overall revenues to the Nevada books.

Projections indicate that even a substantial increase in Nevada's handle stemming from offering rebates would be offset by increased expenses attributable to the aforementioned increase in track fees and rebates that would have to be given to players. The attached exhibit ("Exhibit A") demonstrates that even if the existing Nevada handle (about \$325 million) was to hypothetically expand to 800 million, which is almost two and a half times the current handle, the increased expenses resulting from higher track fees and issuing rebates simultaneously negates any increase in revenue for the race books. In fact, Nevada race books will suffer 12.68% decrease in gross margin.

Moreover, the belief that such a radical expansion of the Nevada handle could even occur is highly unlikely given the current state of the horse racing industry. Over the last decade, the national handle has plummeted 28.3 percent, from \$15.18 billion to \$10.88 billion, according to The Jockey Club numbers.⁴ There simply are not enough players in the marketplace to sufficiently increase our handle to make the offering of rebates profitable.

Finally, even if a sufficient player pool did exist, such a drastic expansion will not happen under current Nevada law because, as detailed throughout, the electronic high volume ADWs do not have to pay Nevada gross revenue taxes on the rebates or the high fees paid the dissemination company. Our books will not be able to compete on price against these ADWs.

Shifting focus from tourists to rebate players introduces different set of regulatory problems.

If the decision is made to move away from tourists to rebate players, the industry will be facing a different set of regulatory challenges, most notably, scrutiny of CRW teams, money laundering and skimming concerns.

In January of 2005, many of the industry's concerns with rebate shops came to the forefront in the Uvari indictment. Several individuals, allegedly associated with the Gambino

⁴ See <http://www.jockeyclub.com/factbook.asp?section=8>.

crime family,⁵ (the “Uvari Group”) used certain rebate shops to operate an illegal gambling business that brokered more than \$200 million in bets on horse racing and other sporting events. According to the Indictment, the Uvari Group typically made money on every bet placed by one of its bettors at an off-site gambling business. The amount of this “commission,” or “rebate,” was allegedly negotiated by the Uvari Group based on the number of accounts that the Uvari Group opened at the off-site gambling business and represented a percentage of the bet that the Uvari Group received regardless of whether the bettor won or lost. For each bet, the Uvari Group allegedly returned a portion of its commission or rebate to the bettor, as an incentive for the bettor to continue to place bets through the Uvari Group. The Uvari group also concealed the identities of most gamblers in its operation thereby promoting tax fraud and also allegedly engaged in money laundering.

Based on the Uvari indictment, the New York Racing Association – and for a time the New York Racing and Wagering Board – decided that offshore rebators had significant potential for money laundering and stopped doing business with these offshore firms. The end result today is even stricter regulatory control from states. Due diligence programs are being used that look into the ownership and business operations of CRW teams wagering into pari-mutuel pools. Regarding New York, players receiving rebates from Nevada books would likely have to be disclosed to the New York regulators and additional investigation regarding those players could be required.

An additional regulatory challenge stemming from the use of rebates is the unlawful compensation of persons who have not been approved by the Nevada Gaming Commission, as required under NRS 464.025(2). A recent example of this issue was uncovered in 2006 by the Nevada Gaming Control Board (“Board”) during its investigation of the Poker Palace. The Board’s investigation revealed that the Poker Place had engaged several unlicensed bookmakers by offering an off-track pari-mutuel contest, which effectively guaranteed the bookmakers a rebate on their wagering activity.⁶ The contest prize pool consisted of the total contest entry fees plus a percentage of the off-track pari-mutuel handle for the previous week. However, the contest was only held if the prior week’s off-track pari-mutuel handle exceeded \$200,000, which was the minimum wagering activity the unlicensed bookmakers had agreed to conduct at the Poker Palace.⁷

Throughout the time period in which the contest was held, there were rarely more than four participants and, with few exceptions, every participant was associated with the unlicensed

⁵ See <http://www.usdoj.gov/usao/nys/pressreleases/January05/uvarietalindictmentpr.pdf>.

⁶ See NGC Case No. 08-17 Complaint, p.7 (May 12, 2009).

⁷ See *Id.* at 7-9. Historical data indicated that the handle for the Poker Palace’s off-track pari-mutuel wagering operation averaged around \$100,000 per month, far below the weekly amount of wagers the unlicensed bookmakers were required to place.

bookmakers.⁸ Because each contest provided four prizes, most of the contests resulted in each unlicensed bookmaker receiving a portion of the prize pool.⁹ Although the contest was designed to appear legitimate on its face, the manner in which the contest was conducted and the make-up of the cash-prize pool rendered it nothing more than a front for an unlawful rebate scheme in violation of NRS 464.075(1)(b) and NGC Reg. 22.125(1)(b).¹⁰ The issue is illustrative, however, of the use of rebates as a vehicle to accomplish an unlawful activity, e.g., providing illegal compensation incentives. In the absence of sufficient regulations, ostensibly lawful rebates may be designed to disguise other illegal activities.

Rebates can be a tool for predatory pricing.

As noted earlier, Nevada race books must rely on others for the product and for the delivery of that product by wire and television into Nevada. This requires our industry to enter into numerous price controlled contracts. For instance, we have to contract with the tracks to place our wagers into its pools (called track fees), we need contracts for communications and telecasting of the races and we need contracts for the hub services (called hub fees).

The Nevada Gaming Commission has therefore appointed an eleven person committee, representing eleven licensed pari-mutuel books, that has the exclusive right to negotiate these agreements with the tracks and with the systems operator. When the committee agrees to a rate with either a track or the systems operator, the rate must be “**fair and equitable**” for all books in the state. The track fees are the same for every book. If the books pay a daily fee to the track as opposed to a percentage fee, books pay a percentage based on their percentage of the handle on that track. So, if the daily fee is \$500 and a book has 10% of the total handle on that track, then that book pays \$50. If it has 1%, it pays \$5.

These fees are paid out from a race book’s commission on wagers, also referred to as the takeout.¹¹ The money left over from the takeout after paying the track fees, hub fees, gaming taxes and all operating expenses is the net revenue of the book. What little revenue left, is a book’s small profit margin.

Therefore, a race book that wished to engage in predatory pricing could easily use unregulated rebates to price everyone else out of the industry. Because race books cannot increase their margins as fees are price controlled and revenue percentages are fixed,¹² offering

⁸ See *Id.* at p.7.

⁹ See *Id.*

¹⁰ See *Id.*

¹¹ Takeout means “the amount retained and not returned to patrons by a pari-mutuel book from the total amount of off-track pari-mutuel wagers.” NGC Reg. 26A.020(4).

¹² NGC Reg. 26A.150 Deduction of commission on wagers. The total percentage of off-track pari-mutuel wagers that is to be deducted as a commission on wagers must be:

1. For interstate common pari-mutuel pools, the same percentage as deducted by the track, unless a different percentage is otherwise approved by the commission; and

lucrative rebates will likely eliminate the competition. Again, books with smaller handles simply can not absorb the added costs stemming from offering rebates given their already slim profits and will have to close.

Summary

The preceding are not the only potential issues that may arise from shifting the focus of race books from tourists to rebate players. Rebates may lead to other problems such as money laundering and skimming in casinos. Accordingly, new and sophisticated due diligence programs will have to be instituted to ensure the integrity of the wagers made and rebates received via Nevada race books. At a minimum, rebates need to be regulated so they are not abused as a method to return 100% of the wager in "clean" winnings.

The offering of rebates poses serious concern to the NPMA. Most notably, the NPMA does not believe permitting rebates would allow Nevada race books, as they exist today, to continue. Rather, even with an extremely significant increase in Nevada's handle, which is improbable, the increased fees and costs associated with the rebates reflect a substantial increase in cost to do business for Nevada race books and will likely result in decreased profits. The Nevada race book industry will therefore probably be forced to move away from the smaller, amenity and customer service based approach to a model where patrons are left only with one or two large books to choose between that cater to out-of-state CRW play. The NPMA does not believe this would not be in the best interests of Nevada and licensed gaming in the state as required in subsection 4 of NRS § 464.075.

I hope this brief letter is helpful in demonstrating the issues and our concerns relating to the offering of rebates, or similar incentives, on pari-mutuel wagers. Please contact me, if you have any questions regarding the preceding.

Sincerely,

LEWIS AND ROCA LLP



Anthony Cabot

ANC/kr

Enclosures

cc: Patty Jones, Executive Director of the NPMA (w/Encls.)

**Exhibit A
State of Nevada Rebate Analysis**

	Handle	
<u>Current Estimated NV PM Handle</u>	325,000,000	
Revenue Based on 19.5% of estimated Handle	63,375,000	
Paid to the Tracks 4.01% (estimated avg)	(13,032,500)	
Comps 4% (operating costs such as drinks, racing forms, etc.)	(13,000,000)	
Gross Margin Before Additional Expenses	<u>37,342,500</u>	
<u>Hypothetical Total Estimated Handle with Rebates</u>	\$500,000,000	\$800,000,000
<u>Handle Under Current Criteria (current handle that is not rebated)</u>	175,000,000	175,000,000
Revenue Based on 19.5% (non-rebate handle of \$175M)	34,125,000	34,125,000
Paid to the Tracks 4.01% (estimated avg)	(7,017,500)	(7,017,500)
Comps 4% (operating costs such as drinks, racing forms, etc.)	(7,000,000)	(7,000,000)
Gross Margin Before Additional Expenses	<u>20,107,500</u>	<u>20,107,500</u>
<u>Handle Under Current Criteria (current handle that will convert to rebates)</u>	150,000,000	150,000,000
Revenue Based on 19.5% (converted rebate handle of \$150M)	29,250,000	29,250,000
Paid to the Tracks 8% (estimated increased track fees)	(12,000,000)	(12,000,000)
Blended (WPS/Exotics) Rebate Allowance of 8.5%	(12,750,000)	(12,750,000)
Advance Deposit Wagering System 1%	(1,500,000)	(1,500,000)
Gross Margin Before Additional Expenses	<u>3,000,000</u>	<u>3,000,000</u>
<u>Hypothetical Handle Increase due to Rebates</u>	175,000,000	475,000,000
Revenue Based on 19.5% of new rebate handle	34,125,000	92,625,000
Paid to the Tracks 8% (estimated increased track fees)	(14,000,000)	(38,000,000)
Blended (WPS/Exotics) Rebate Allowance of 8.5%	(14,875,000)	(40,375,000)
Advance Deposit Wagering System 1%	(1,750,000)	(4,750,000)
Gross Margin Before Additional Expenses	<u>3,500,000</u>	<u>9,500,000</u>
<u>500M in Handle Based on Rebates</u>		
175M (of 325M current handle that is not rebated)	20,107,500	
150M (of 325M current handle that will convert to rebates)	3,000,000	
175M (Increase due to rebates)	3,500,000	
	<u>26,607,500</u>	
<i>Decrease in Gross Margin</i>	(10,735,000)	
	-28.75%	
<u>800M in Handle Based on Rebates</u>		
175M (of 325M current handle that is not rebated)		20,107,500
150M (of 325M current handle that will convert to rebates)		3,000,000
475M (Increase due to rebates)		9,500,000
		<u>32,607,500</u>
<i>Decrease in Gross Margin</i>		(4,735,000)
		-12.68%

I am an avid horse player. As I understand the three options for paying the rebate to the bettors, I feel by far the best is option #2, refunding a portion of the full face value of the wager to the customer.

Thank you.

Robert Snyder

PEPPERMILL RENO

August 7, 2013

Office of the Executive Secretary
Nevada Gaming Commission
1919 College Parkway
P.O. Box 8003
Carson City, NV 89702

Sally Elloyan, Executive Secretary:

RE: request for comments relating to rebates on pari-mutuel wagers

Your notice dated July 19, 2013 solicits comments on three different ways to reduce pari-mutuel profit:

1. Allow the player to pay less than the full amount of the bet.
2. A cash kick back to the player determined by a percentage of his wagers.
3. Pay the player more than his bet would actually win.

I think all of these are very bad ideas. I am opposed to any form of cash rebate or discount.

- a. There are too many "fingers in the pie" already. To set up a bidding war to see who can pay the most for player business will eventually erode profitability beyond common sense.
- b. Our premium players are satisfied with complimentary hospitality. The franchise operators in Nevada should contract with their host properties to provide competitive comps. To allow the franchise operators to give cash rebates gives them an unfair advantage over traditional proprietary race books.
- c. We tried this back in the 90's and it was a disaster when the California racetracks withheld their simulcast signals from Nevada race books.

The rebate craze as currently evolving in the horse racing industry worldwide is self destructive and detrimental to the fiscal health of the industry. The high volume rebate shops operating offshore are just a sleight-of-hand capital manipulation done through high-speed computer-generated wagering programs. Most traditional Nevada race books are not competing with these operators. Serious handicappers and industry experts think that this process damages the betting pools and therefore average players everywhere suffer loss of value and interest.

Thank you for the opportunity of expressing our opinion.

Terry Cox
Director of Race/Sports/Keno
Peppermill Reno
775-689-7452
tcox@peppermillreno.com

Office of the Executive Secretary Nevada Gaming Commission,
Congratulations on joining the modern times of race & sports book rebates which are now
similar to overseas sports gaming paying rebates back to players.
I know many people who go overseas & this will now keep money in Nevada.

Sincerely,

Paul Rosa

702-858-6406

From: avford@cox.net [mailto:avford@cox.net]
Sent: Wednesday, July 31, 2013 6:21 PM
To: Fralick, Adriana
Subject: Pari-Mutuel Rebates

Dear Nevada Gaming Commission,

The main point is to enable the Nevada Racebooks to offer rebates as quickly as possible. Every day serious horseplayers are betting where they get rebates and Nevada Racebooks are missing out on all that handle.

All 3 options listed for comment have some merit.

Option 1) Would decrease the handle a little depending upon the rebate size.

Option 3) Seems to favor winning players more and winning players are going to bet anyway.

Option 2) Appears to be the most sensible option rewarding players according to their total wagers (win or lose). This option is what most players and Racebooks are familiar with and is probably the easiest for Racebooks to do.

Rebates in the Nevada Racebooks will go a long way in helping the popularity of horseracing which is greatly needed. Please act quickly.

Sincerely,

Vic Ford
long time NV resident

From: avford@cox.net [mailto:avford@cox.net]
Sent: Monday, July 29, 2013 6:21 PM
To: Fralick, Adriana
Subject: Rebates on Pari-Mutuel Wagers

Dear Nevada Gaming Commission,

I am a long time horseplayer from Nevada. For the past 20 years there has been a steady decline in wagers with the Nevada Racebooks. The reason is that horseplayers are playing where they can get the best deal. I know of many serious horseplayers that would love to play at the Nevada Racebooks, but since no rebates are offered, they go elsewhere where rebates are given out according to the amounts wagered. New horseplayers are needed to help the sport and I see many new patrons who want to learn and play horses get turned off when they find out that no rebates are given to horseplayers. Please allow Nevada Racebooks to give out rebates as soon as possible. The Nevada Racebooks would see an immediate increase in handle which would increase their profits and ultimately help the state.

Thank you,

A.V. Ford
Henderson, NV



Keeneland Association, Inc.
4201 Versailles Road
Lexington, KY 40510
P.O. Box 1690
Lexington, KY 40588-1690
859 251-3412 Tel.
800 456-3412
859 288-4347 Fax
www.keeneland.com

August 8, 2013

Peter C. Bernhard, Esq.
Chairman
c/o Office of the Executive Secretary
Nevada Gaming Commission
1919 College Parkway
P.O. Box 8003
Carson City, NV 89702

Dear Chairman Bernhard:

Keeneland Association is a Thoroughbred Sales and Racing Company based in Lexington, Kentucky. We offer year-round simulcasting and serve as the world's largest marketplace for Thoroughbreds.

We understand that the Nevada Gaming Commission is researching the practice of rebating that may result in regulations that would permit Nevada race books to offer its customers cash rebates on wagers placed on horse races. Keeneland is very supportive of this effort. Tracks today see efforts to increase pari-mutuel wagering handle as a benefit to a quality racing product, and the payment of rebates has become a common practice in the horse racing business to stimulate handle growth. In fact, we find it unusual that the State of Nevada still has a law and regulations prohibiting the practice.

Of more concern to our tracks is the significant drop in racing handle being experienced by Nevada's off-track books. While it has come to our attention that there may be some question regarding the impact rebating will have over pricing, pricing is a complex topic with many influencing criteria, of which a significant criterion is handle volume. As you know from the Nevada Gaming Control Board's own revenue reports, Nevada's pari-mutuel handle volume continues to drop at significant rates and is already down 7.31% year-to-date as of May compared to a national industry that is off only .66% year-to-date for the same period. Nevada's historically low pricing is tied to its historically high handle volume, which it appears to be unlikely to retain or regain

August 8, 2013
Page Two

under current legal constraints. While there is likely to be a cost associated with rebating, there is also likely to be a cost associated with loss of handle volume and the loss of discounted pricing that was associated with higher handle volume.

We are appreciative of any efforts that Nevada is doing to increase the amount of handle and thus further the growth and interest in Thoroughbred racing.

If you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,



Vince Gabbert
Vice President & Chief Operating Officer



Office of the Executive Secretary
Nevada Gaming Commission
1919 College Parkway
PO Box 8003
Carson City, NV 89702

Re: Rebates on Pari-mutuel Wagers

As an interested party and license holder of 6 race books Cantor Gaming would like to provide the following comments on the feasibility of agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager.

Summary

Nevada's handle has been in steady decline for more than a decade. All States that offer pari-mutuel wagering legally provide patrons with rebating and have little issue in luring significant bettors to move their wagering out of Nevada, and Nevada books have few tools to fight such competition. These states offer an identical product to the one offered in Nevada but provide the customer with a greater return, and current restrictions make it impossible for Nevada books be competitively priced.^[1] Brick and mortar race tracks throughout the United States with similar infrastructures to Race & Sports books offer rebates and pay higher signal fees. These tracks have not had a problem adjusting to the revised business model.

Additionally pari-mutuel wagering is at a disadvantage in the Nevada casino environment because all other types of wagering are eligible for forms of discounts, free play or promotional activities to help stimulate wagering activity, patron attraction and retention. We believe that the implementation of pari-mutuel rebates will provide an opportunity to galvanize the states horse wagering business and allow it to be competitive with the rest of the United States.

Nevada Landscape: From the inception of pari-mutuel racing, Nevada enjoyed a competitive landscape with regard to rebating on pari-mutuel wagering until 1997.^[2] In 1997, Senate Bill 318, a bill that "*makes various changes to provisions governing gaming*" contained provisions to prohibit rebating. The legislative history shows that other states, and California in particular, were opposed to Nevada permitting its race books to rebate pari-mutuel wagers because it was discounting California's racing product and thus driving customers from California to Nevada and thus depriving California racing of revenue that it would otherwise retain. The following excerpt from the legislative history illustrates the issue clearly:

^[1] Any particular pari-mutuel wager is offered by the track hosting the race. The wager, including the odds and the price before rebate, is the only variable for a consumer shopping to place a wager on the long shot in the third race at Belmont is price.

^[2] *Nevada Senate Bill 318 Before the Assembly Judiciary Committee, (July 2, 1997) (See statement of Barry Lieberman, General Counsel, Coast Resorts, Inc. "He stated rebates were a way that the smaller casinos could compete with the larger casinos. He said the rebate issue was part of his client's marketing plan when the contract they were operating under allowed it. He said the rebate issue could be controlled by the tracks.")*

“Mr. Cabot maintained the biggest problem was the state of California prohibited the tracks in California from giving rebates. Therefore, the state of California claimed the state of Nevada was stealing their customers, and for every customer who bet in Nevada, the state of California got 3.5 percent back, but had they bet in California, they would have gotten 18 percent back. The state of California concluded for every dollar that crossed the state line, because Nevada gave rebates that California could not give, they were losing \$6. The NPMA could not argue with that logic, and felt that if the state of California was good enough to sell the state of Nevada their signal and the rights to do pari-mutuel wagering, the state of Nevada should not be competing with them for their own customers. What had happened, according to Mr. Cabot, was that was not the case; there were three books that were still giving rebates, and the state of California said they wanted a significantly larger amount of money for the state of Nevada to do pari-mutuel wagering, if Nevada was going to give rebates and steal California's customers. He emphasized that affected casinos that were not giving rebates.

The other situation, told by Mr. Cabot, was a New Jersey track told the NPMA to specifically exclude the three books giving rebates, or they would not allow the state of Nevada to do pari-mutuel wagering with the state of New Jersey. Mr. Cabot said they told the state of New Jersey the NPMA could not do that; that was not the way the NPMA's system was set up, so therefore, the NPMA was currently not taking pari-mutuel signals from the state of New Jersey. He concluded rebates had created a significant problem in the way the NPMA negotiated contracts with other states which had resulted in a "blackout" in California, and no pari-mutuel wagering with the state of New Jersey.”

- Nevada Senate Bill 318 Before the Senate Judiciary Committee, (June, 1997)

In 1997, Nevada was threatened with loss of signals or “blackouts” from states that prohibited the practice of rebating in their own states or at their own tracks. As evidenced in the testimony outlined above, Nevada and its rebating practices were blamed for declining local handle. California was particularly vocal regarding the issue and was active in submitting letters to the Nevada legislature in support of statutory prohibitions against rebating. Letters were received from the California Horse Racing Board, the Thoroughbred Owners of California, and the Los Angeles Turf Club, all expressing support for Nevada’s prohibition against rebating. Copies of these letters are provided as Exhibit A to this letter. As noted below, these letters do not reflect the current position of California racing, which generally permits rebating on races at California tracks.

Despite Nevada’s prohibition against rebating in 1997, handle apparently did not improve significantly elsewhere and California ceased enforcing its anti-rebating regulation shortly after forcing the issue with Nevada. For example, in 2004, Magna Entertainment, began offering rebates through its account wagering subsidiary on races at its California tracks.^[3] By 2009, the California Horse Racing Board (the “CHRB”) formally and unanimously rescinded its anti-rebating regulation in California.^[4] During the discussion, Craig Fravel, then the president of Del Mar Thoroughbred Club in supporting the repeal of the regulation stated that *“I mean, basically, the view that everybody took, including the Board,*

^[3] See Jack Shinar, CHRB Moves to Rescind Anti-Rebate Stance, BLOOD-HORSE & BLOODHORSE.COM, February 26, 2009, available at <http://www.bloodhorse.com/horse-racing/articles/49388/chrb-moves-to-rescind-anti-rebate-stance>

^[4] Meeting of the State of California Horse Racing Board Regular Meeting, February 26, 2009, transcript available at http://www.chrb.ca.gov/board/board_meeting_transcripts/TRANSCRIPT%2009-02-26.pdf

was that the rule said you have to place in your contract a prohibition on rebating, which everybody did and everybody ignored it. It didn't say you have to enforce it.”^[5]

In 2003, the Nevada Pari-mutuel Association (the “NPMA”) also sought to soften Nevada’s anti-rebating statute by supporting an amendment to NRS 464.075 to permit the Commission by regulation to exempt certain bets, refunds, rebates, payoffs or bonuses from the anti-rebating provisions of NRS 464.075. In written testimony submitted to the Nevada Senate Judiciary Committee on March 21, 2003, Anthony Cabot, Legal Counsel to the NPMA along with Patty Jones, the Executive Director of the NPMA noted that in 1999 Nevada racing handle had risen to \$619 million, but by the time of their testimony racing handle had dropped to \$470 million.^[6] According to the NPMA and its counsel, the drop in handle was attributed to a lack of competitiveness in Nevada caused by two primary factors, first a lack of account wagering and second a lack of rebating. With regard to rebating their testimony stated as follows:

The second requested change involves the prohibition against race books giving rebates to patrons. A rebate is when a patron is given a discount on the face amount of the wager or given a portion of every bet back.

The prohibition was implemented in 1997 because the California tracks refuse to provide our books access to their wagering pools without it.

We capitulated as a point of diplomacy to end an extended blackout of California racing at our books.

California tracks, however are now giving out such rebates. Likewise OTBS and tracks across the country and world are following such practices.

We are not requesting that the prohibition be lifted, only that the Nevada gaming Commission be able to carve out exceptions to the prohibitions that are in the best interest of the State...

The Nevada Legislature ultimately enacted Senate Bill 3, which included the following language granting the Commission the power to exempt certain bets from the statutory prohibitions against rebating:

The Nevada Gaming Commission may, by regulation, exempt certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 if the Commission determines that such exemptions are in the best interests of the State of Nevada and licensed gaming in this state. Any bets, refunds, rebates, payoffs or bonuses that would result in the amount of such bets, refunds, rebates, payoffs or bonuses being directly or indirectly deductible from gross revenue may not be exempt.

In the ten years since the NPMA successfully lobbied to permit Nevada books to use rebating as a tool to be more competitive nationally and internationally, the horse racing industry has continued to decline and Nevada’s competitive position has continued to erode. As recently as the August 2012 Nevada Gaming Commission Meeting, Anthony Cabot while representing the NPMA explained that real

^[5] Id at page 34.

^[6] *Senate Committee on Judiciary*, March 21, 2003, (See Testimony of Anthony Cabot, Legal Counsel to the Nevada Pari-mutuel Association Before the Nevada Senate Judiciary Committee March 21, 2003, written testimony stamped as Exhibit D).

racing handle is down 37% from its peak in 2003, race days are down 15 percent from 2000, 4 % of the customer base is being lost every year (half of that to death) and the competitors in this space are fighting ever more fiercely over this shrinking pie.^[7]

At that same August meeting the NPMA expressed the devastating truth that Nevada’s racing handle is just 56.7 percent of what it was just six years ago. Additionally, the news is getting worse because the NPMA projects handle to drop an additional 3 to 5 percent again this year.^[8] In fact, the currently published Nevada Gaming Control Board Revenue Report through June (the most current as of the date of this letter), shows Pari-Mutuel Wagering down 6.15% year to date from last year, Pari-Mutuel win was down 8.6% for the last twelve months and down 11.36% comparing June to June. ^[9] Clearly, race books in Nevada need tools to be more competitive and thankfully, the legislature has provided the opportunity to implement on of these tools if the Commission adopts regulations consistent with the legislative grant.

Condition of pari-mutuel wagering in the state of Nevada

In the nine years since account wagering and exemptions for rebating were introduced into Nevada’s statutes, Nevada has continued to lose ground to other states with off track betting. The following table shows a comparison of Nevada’s handle with Oregon’s off track betting handle:

<i>Year</i>	<i>Nevada OTB</i>	<i>Oregon OTB</i>
2003	\$478,806,057	\$830,018,121
2004	\$502,413,594	\$883,019,744
2005	\$537,729,331	\$961,801,294
2006	\$561,936,231	\$1,340,375,866
2007	\$551,109,806	\$1,573,680,479
2008	\$464,770,318	\$1,308,416,446
2009	\$384,333,333	\$1,244,690,722
2010	\$381,180,012	\$1,448,791,376
2011	\$363,355,745	\$1,844,927,704
2012	\$333,980,700	\$2,211,317,676

Note that Nevada has been suffering through five straight years of declining handle. In contrast, Oregon has only had two years of decline since 2003 and has managed to more than double its off-track betting handle. While the back-end systems, regulations and laws of Oregon and Nevada may be different, the product offered to customers is the same, namely, pari-mutuel wagers on races at tracks through books that are not part of the track.

^[7] See Before the Nevada Gaming Commission, August 2012 Agenda, Off –Track Pari-Mutuel Wagering Committee, Transcript, Page 18, Comments of Anthony Cabot, Counsel to the Nevada Pari-mutuel Association.

^[8] Id. at page 20.

^[9] Source Nevada Gaming Control Board

Impact of rebates on related parties

Impact on states handle - The anticipated impact on pari-mutuel handle is that overall handle will significantly increase. This increase will occur due to 2 major factors; first, existing customers will immediately have more liquidity to wager due to having more money in hand and secondly new customers will be driven to wager in the state because they will receive a competitive rebate.

Impact on taxation – Cantor would propose that the rebate be given to the patron as an after tax expense, which could be treated similarly to the way complimentary's are currently handled. Adopting this methodology would ensure that the process by which operators accumulate tax information and pay taxes based on pari-mutuel wagers would remain unchanged. This is consistent with current statutes that prohibit the deduction of rebates and promotions from pari-mutuel gross revenue.¹⁰ The state would receive more tax dollars, since handle would increase and the operators pay tax on revenue which is earned as a commission based upon handle.¹¹

Impact on operators – As previously stated if rebates are treated as a complimentary, it is in the sole discretion of the operators as to if and at what levels of rebates are offered. This method would not yield any tax advantages to operators offering rebates. (Exhibit B included within provides an example of the impact to the operator on offering a rebate). However, Cantor Gaming's research regarding rebating in other jurisdictions indicates that most patrons wager rebated amounts, thus the rebated amounts are churned back into the pari-mutuel system, thus further increasing the volume of business for the operator.

Impact on tracks – Currently all track agreements for pari-mutuel wagering are negotiated exclusively by the Rate Committee appointed by the Commission. Tracks are compensated by the state of Nevada either through a negotiated daily fee or percentage of handle. As they currently stand, the track agreements the Rate Committee has negotiated with the various tracks around the country all contain a specific prohibition from rebating. Cantor believes that the tracks would be more than willing to negotiate with the Rate Committee to remove the language prohibiting rebates, if it is allowed by Nevada regulation. A representative of the majority of significant tracks in California sent a letter to the Nevada Legislature during the 2013 session that emphasizes that many of the same tracks that opposed rebating in 1997 are now in favor of rebating today. Likewise, the Chairman of the Thoroughbred Owners of California (who also is a licensee of a small unrestricted casino facility in Carson City) also sent a letter in support of rebating to the 2013 Nevada Legislature and this is the chairman of the same organization that sent a letter to the Nevada Legislature opposing rebating in 1997. Copies of the 2013 letters are attached to this letter as Exhibit C.

One of the concerns that has been raised is that tracks may increase their signal fees if rebates are allowed, which is a possibility, however there is no reason to believe that that the rates may not increase anyway due to the significant decreases in handle in the state of Nevada and the resulting diminished bargaining strength.

Operational feasibility

Operations overview – Cantor believes that the issuance of a cash rebate is feasible from an operational perspective. Rebates can be tracked and processed by various methods including through Smart Button, the race complimentary software program made available to all race books through LVDC, other complimentary management systems currently used by licensees, or through account wagering. A pari-mutuel race customer will be rebated a percentage of his stakes. The rebate amount may vary from track

¹⁰ See NRS 464.045(3)

¹¹ Oregon is used as a comparison because other jurisdictions do not publish pari-mutuel handle. .

to track, bet type to bet type, and amount wagered and other factors each individual race book may choose to implement, in part guided by the takeout and track fees as may be negotiated with the tracks. Cantor's expectation is that its customers will broadly receive an average rebate credit of up to 8% of their bets depending on their betting volume. Full details of exact rebate terms would be posted in every Cantor Gaming-operated Race Book, and patrons will have access to this 'rebate menu'. Once the race results are officially posted, the rebate can immediately be added to the patron's comp balance for their subsequent use where a significant portion of the rebate amount is likely to be again wagered by the patron.

Operational specifics – A customer would make a race wager through the race book. Each wager would be systematically sent to the disseminator where the wagers will be placed into the pari-mutuel pool the same way as they are currently treated.

The Cantor Race system would receive all race results and pricing directly from the disseminator and the customer's comp balance would be adjusted based on the outcome of the race. In addition to the settlement of the wager the customer's comp balance would also reflect the addition of their rebate, which would be listed as a separate transaction being added to their comp balance. The rebate would be placed into the patron's comp account immediately after the race has been made official, meaning when the result is sent from the disseminator. The customer would be able to re-bet this amount, or make a withdrawal, whichever option they choose. This system would need to be approved by the Gaming Control Board and/or Nevada Gaming Commission as required by regulations.

Reporting and State Tax Revenue affect

Revenue and tax reporting would be no different from the way it is currently treated. The reports generated by the disseminator which are currently used to compile the information on NGC tax forms can still be used. The only change to the process would be that the operators system (in this case Cantor Race) would be used to track player balances and rebates. If rebates are treated as an after tax expense, as discussed previously, this reporting will only be needed by the operator so they can track cash balances, liabilities and expenses, it would not be required when calculating the revenue earned or gaming tax owed, yielding only increased taxable revenue for the State

Conclusion/Recommendation

One of the largest dilemmas pertaining to rebates is balancing the concerns of the smaller operators who believe they cannot afford rebates and of some in the industry who believe that rebates would cripple the Rate Committee's ability to negotiate status quo rates with the tracks against the views of other operators such as Cantor, who believe that despite a potential increase in fees, rebating would be beneficial in drawing bettors back to Nevada to increase race betting, taxes and potentially have a positive spillover effect. Our suggestion is that the Commission direct that dual rates be negotiated with each track if, in fact, the tracks require rate increases to allow rebates. Operators that choose to not participate in a rebate program would then be afforded rates that could be the same as those negotiated today if the tracks are amenable, and those race books can continue their business model of offering complimentary to customers which may better suit their customer base. Operators who offer rebates would pay a different signal fee, which would be negotiated under the premise that rebates would be offered. This fee should be consistent with what track operators around the country pay while they offer rebates, which are not significantly disparate from the Nevada rates.

Cantor thanks the Commission for its consideration and we look forward to the opportunity to participate in this important discussion.

EXHIBIT A

1997 Letters Submitted To The Nevada Legislature Supporting a Prohibition on Rebating

JUN 30 '97 15:14 FR TOC

818 821 1515 TO 17026948988

P.02/02

June 30, 1997

JUN 30 1997



Via Facsimile and Mail

Mr. Bernie Anderson
Chairman
Nevada Assembly Judiciary Committee
401 S. Carson Street
Carson City, Nevada 89701-4747

Re: SB 318

Dear Chairman Anderson:

I am President of the Thoroughbred Owners of California ("TOC"), the organization which represents the approximate 9,000 owners of Thoroughbred horses in California. TOC strongly supports and recommends the passage of SB 318 out of your committee. TOC believes that the existence of rebates in Nevada has seriously interfered in the attempt to resolve the dispute between race books in Nevada, California tracks and TOC. Thank you for your interest in this very serious matter.

The proposed Nevada legislation conforms to Section 1950.1 of the Rules and Regulations of the California Horse Racing Board which became effective on June 20, 1996. The CHRHB rule necessitated an amendment to the original agreement dated December 7, 1995 between the Nevada Pari-Mutuel Books and Los Angeles Turf Club (Santa Anita). The original agreement did not contain a provision for the prohibition of rebates as required by Rule 1950.1. The purpose of the amendment was to formally add rebate language to the original agreement and place the parties in compliance with CHRHB Rule 1950.1.

Again, we strongly encourage your support of SB 318.

Sincerely,

John K. Van de Kamp
President

JVK:jas

**PRESIDENT &
GENERAL COUNSEL**

JOHN K. VAN DE KAMP

EXECUTIVE COMMITTEE

BO FREDRICK
CHAIRMAN OF THE BOARD

RON CHARLES
VICE PRESIDENT

JACK B. OWENS
VICE PRESIDENT

MACI SEIGL
VICE PRESIDENT /
TREASURER

DIRECTORS

THOMAS W. SACHMAN

GARY W. BUREK

RON CHARLES

MARSHALL CHASE

BO FREDRICK

CHARLES R. JONES

ALAN LANGRISH

ROBERT S. LEWIS

FRANK R. LONERGAN

MARVIN MALMSTEIN

JACK B. OWENS

MACI SEIGL

HONORARY DIRECTOR

J. TERENCE LANE

**INTERIM EXECUTIVE
DIRECTOR**

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285 W. HUNTINGTON DR.

ARCATA, CA 95521

(818) 374-6620 PHONE

(800) 994-9909 TOLL-FREE

(818) 821-1513 FAX

Submitted to the Committee on Judiciary on 7/2/97
by John Van de Kamp, Thoroughbred Owners of California

EXHIBIT H



Los Angeles Turf Club, Incorporated
Santa Anita Park
285 West Huntington Drive
P.O. Box 60014
Arcadia, California 91066-6014
Telephone: (818) 574-2223
FAX: (818) 446-9565

JUN 29 1997

President

June 29, 1997

Mr. Bernie Anderson
Chairman
Nevada Assembly Judiciary Committee
401 So. Carson Street
Carson City, Nevada 89701-4747

Dear Chairman Anderson:

It has come to our attention that SB 318 will be heard shortly before your committee.

As President of Santa Anita Park I am writing to recommend passage of this bill out of your committee. In our opinion the existence of rebates in Nevada is what first sparked the current dispute between race books in Nevada and California tracks. Passage of this bill will greatly assist the ability of these two parties to reach an understanding after several months without a California signal.

We strongly urge your support of SB 318.

Best regards,


Clifford C. Goodrich

Submitted to the Committee on Judiciary on 7/27/97
by Clifford Goodrich, Santa Anita Park

EXHIBIT I

STATE OF CALIFORNIA

PETE WILSON, GOVERNOR

CALIFORNIA HORSE RACING BOARD

1010 HURLEY WAY, SUITE 300
SACRAMENTO, CA 95825
(916) 263-6000
FAX (916) 263-6043



JUN 30 1997

June 30, 1997

VIA FACSIMILE AND REGULAR MAIL

Mr. Bernie Anderson, Chairman
Nevada Assembly Judiciary Committee
401 S. Carson Street
Carson City, NV 89701-4747

Dear Chairman Anderson:

We are informed that your committee will be hearing S.B. 318 which deals with rebates being paid on pari-mutuel wagering. Our Board has been steadfastly opposed to rebates as evidenced by California Horse Racing Board Rule 1950.1, Rebates on Wagers, which prohibits them. We support the elimination of rebates and support penalties associated with them when they are found to be in use. We thank you for your consideration in this matter and would appreciate your committee's further consideration.

Sincerely,

A handwritten signature in cursive script that reads "Ralph M. Scurfield".

Ralph M. Scurfield
Chairman

RMS:jb

Submitted to the Committee on Judiciary on 7/2/97
by Ralph Scurfield, California Horse Racing Board

EXHIBIT G

EXHIBIT C

LETTERS TO THE 2013 NEVADA LEGISLATURE SUPPORTING REBATING

MONARCH
CONTENT MANAGEMENT
285 W. Huntington Drive, Arcadia, CA 91007

VIA EMAIL

May 16, 2013

The Honorable Jason Frierson
Chairman
Nevada Assembly Judiciary Committee
401 South Carson Street
Carson City, Nevada 89701-4747

Dear Mr. Frierson:

Monarch Content Management, LLC is the simulcast purchase and sales agent for the following racetracks: California Authority of Racing Fairs, Del Mar, Fairplex, Golden Gate Fields, Gulfstream Park, Hollywood Park, Kentucky Downs, Laurel Park, Lone Star Park, Meadowlands, Monmouth, Pimlico, Portland Meadows, Santa Anita Park and Tampa Bay Downs. Please note that the Monarch tracks include every thoroughbred racetrack in the State of California with the sole exception of the Sonoma County Fair.

We understand that the Nevada legislature is considering passing legislation that would permit Nevada race books to offer its customers cash rebates on wagers placed on horse races. Monarch and the racetracks we represent are fully supportive of this legislation. It has come to our attention that there may be some question as to whether the California racetracks would continue to sell their racetrack signals to the Nevada casinos if the casinos offer rebates. I can assure you that they will. The payment of rebates has become a common practice in the horse racing business. In fact, we find it unusual that the State of Nevada still has a law prohibiting the practice.

Please feel free to contact me if you have any questions or need any further information.

Very truly yours,



Scott Daruty
President

Dear Chairman and Members of the Assembly Judiciary Committee,

It has come to my attention that you are considering a bill (SB425) to permit Nevada race books to engage in rebating or price competition on pari-mutuel racing. As you may know, I own two Nevada non-restricted casino locations with race and sports operations in Northern Nevada. I am also a Thoroughbred Owners of California Board Member. As such I am in a somewhat unique position to weigh in on this bill as I can see this issue from the view points of both Nevada race book operator's perspective and that of California racing.

Unfortunately, my commitments related to the Kentucky Derby and Triple Crown racing have dominated my time and I was unable to testify in person regarding SB425 before your committee. However, I can say without any reservation that enactment of SB425 is essential to the health and survival of Nevada race books.

Nevada racing has been in decline for more than a decade. The Nevada Pari-mutuel Association and our attorneys have made great efforts in the past to provide us with tools to compete. But without the ability to compete on price these other tools – the ability to use account wagering, taking wagers from bettor in other states, advanced deposit wagering and call centers – can never reach their full potential.

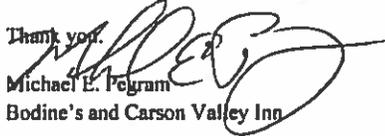
I know there have been arguments that track costs to Nevada race books will likely go up with rebating. However, as a participant in California racing I can inform you that costs are likely to go up for Nevada books in any event. This is because the discounts offered to Nevada in the past were an accommodation made based largely on the volume of wagering provided by Nevada and that volume is no longer what it was. Therefore, as Nevada racing handle has dropped, its negotiating power based on its volume to get the best track pricing in the nation has dropped.

I have also learned that there are rumors that rebating will result in a return to having racing signals cut off to Nevada. This is ridiculous as rebating is the industry norm outside of Nevada. From the perspective of the racing product provider, there is a realization that growing handle is good for the racing industry. It is handle and the takeout from handle that funds the entire industry.

Additionally, I have also learned that there was an argument that rebating will raise all sorts of legal issues with Nevada licensees. As I recall, Nevada invented rebating and conducted rebating within the scope of Nevada's regulatory system without any significant issues prior to 1997. Additionally, the rebating will be done by Nevada licensees, the same licensees that have been deemed suitable to hold a Nevada nonrestricted gaming license.

Finally, Nevada pari-mutuel racing has been in decline for decades. As a licensee I can tell you that there is nothing to indicate that the status quo is likely to alter this decline. SB425 merely puts Nevada race books on a level playing field with race books in other states. SB425 gives Nevada race books a fighting chance to recover handle and the associated tax revenue.

Thank you.


Michael E. Pegram
Bodine's and Carson Valley Inn

August 8, 2013

Office of the Executive Secretary

Nevada Gaming Commission

1919 College Parkway

P.O. Box 8003

Carson City, NV 89702

Fax 775-687-8221

afralick@gcb.nv.gov

Re: Comments on Issues Relating To the Offering of Rebates on Pari-Mutuel Wagers

To Whom it May Concern:

This letter is to express MGM Resorts International, parent company of ARIA, Bellagio, Circus-Circus-Las Vegas, Circus-Circus-Reno, Excalibur, Luxor, Mandalay Bay, MGM, The Mirage, Monte Carlo, New York -New York, and Silver Legacy, opinion on the feasibility of offering rebates on pari-mutuel wagers accepted by race books operated in Nevada.

We are of the opinion that any form of rebating of pari-mutuel wagers, whether it is not accepting payment for the full face value of the wager, bonus/increase the payout of a winning pari-mutuel wager, rebating a percentage of patrons pari-mutuel wagers, or any other structuring of wagers that gives the player a cash reimbursement for their pari-mutuel wagering is not in the best interest of the race book industry in Nevada for numerous reasons.

Our current rate fee structure with the various race tracks around the country/world has been a long and ongoing process of trying to keep the rates as low as possible for the operators in the state in hopes of keeping pari-mutuel racing a viable product in Nevada. A move towards rebating will be seen as a direct threat to the race tracks as most tracks have an interest in an account deposit wagering (ADW) rebating businesses. It is a natural assumption that we would be viewed as a direct competitor for their players and our rates would increase for a product the tracks control and we must have to operate.

The current tax structure, overhead, cost of regulatory requirements, and numerous other fees and expenses required by a brick and mortar operation places us at a competitive disadvantage in the razor thin margin business that is pari-mutuel wagering around the globe. The margin for profitability is the thinnest for those engaged in the rebate business. Most operators offering pari-mutuel rebates operate on a 1%-2% margin giving the players the highest payback possible. Under our current conditions the operators in Nevada have costs that would prohibit us from being competitive in that market and would leave Nevada operators with higher track fees and other expenses and very little , if any, incremental revenue to offset those expenses . As a result the Nevada race book industry would be far worse off for having ventured into this ultra competitive environment with the playing field stacked against us.

I don't think anyone disputes that horse racing handle in Nevada is declining at an alarming rate, however the state of the industry on the national level is experiencing the same fate, slightly less but nonetheless on the decline. Currently, Nevada's race books are benefitting from a favorable rate structure that the Nevada Pari-Mutuel Association and the rate committee work hard in negotiations to keep in place for the common good of all in the race book industry in Nevada. I believe that if our current business model is changed to allow for rebating it will facilitate the rapid increase in track rate fees and other fees incurred resulting in the decline in the profitability of pari-mutuel horse racing in Nevada. As with any area of business faced with an operating deficit decisions will have to be made as to whether to continue or close the failing component of the business. At MGM Resorts International we have discussed contraction of some of our race books if the operational environment ever became fundamentally unprofitable. Permitting rebates will hasten the day of unprofitable operations.

For your consideration.

Sincerely

A handwritten signature in black ink that reads "Jason D. Rood". The signature is fluid and cursive, with the first name "Jason" written in a large, sweeping script.

Jason D. Rood

MGM Resorts International

Vice President of Race and Sports Operations

MONARCH
CONTENT MANAGEMENT
285 W. Huntington Drive, Arcadia, CA 91007

August 7, 2013

VIA ELECTRONIC MAIL & FEDERAL EXPRESS

Peter C. Bernard, Chairman
Nevada Gaming Commission
c/o Office of the Executive Secretary
1919 College Parkway
P.O. Box 8003
Carson City, NV 89702

Dear Chairman Bernhard:

Monarch Content Management, LLC is the simulcast purchase and sales agent for the following racetracks: California Authority of Racing Fairs, Del Mar, Fairplex, Golden Gate Fields, Gulfstream Park, Hollywood Park, Kentucky Downs, Laurel Park, Lone Star Park, Meadowlands, Monmouth Park, Pimlico, Portland Meadows, Santa Anita Park and Tampa Bay Downs. Please note that the Monarch tracks include every thoroughbred racetrack in the State of California with the sole exception of the Sonoma County Fair.

We understand that the Nevada Gaming Commission is researching the practice of rebating, and is considering regulations that would permit Nevada race books to offer their customers cash rebates on wagers placed on horse races. Monarch and the racetracks we represent are fully supportive of this effort. We would welcome new regulations in Nevada that would permit the payment of cash rebates by Nevada race books.

It has come to our attention that there may be some question as to whether the racetracks would continue to sell their racetrack signals to the Nevada race books if these books offer rebates. Back in the late 1990's, many racetracks were opposed to the payment of cash rebates on wagers placed on the racetracks' signals. However, the racing world has changed in the last 15 years and I can assure you that rebating is now the norm. The tracks represented by Monarch have no intention of severing ties with Nevada books over the issue. Tracks today see efforts to increase pari-mutuel wagering handle as of utmost importance, and the payment of rebates has become a common practice in the horse racing business to stimulate handle growth from large customers. In fact, we find it unusual that the State of Nevada still has a law and regulations prohibiting the practice.

Please feel free to contact me if you have any questions or need any further information.

Very truly yours,



Scott Daruty
President

MONARCH
CONTENT MANAGEMENT
285 W. Huntington Drive, Arcadia, CA 91007

November 12, 2013

VIA ELECTRONIC MAIL & US MAIL

Peter C. Bernhard, Chairman
Nevada Gaming Commission
c/o Office of the Executive Secretary
1919 College Parkway
P.O. Box 8003
Carson City, NV 89702

Dear Chairman Bernhard:

I am writing to you again regarding the issue of Nevada race books offering their customers cash rebates placed on horse races. As you know, Monarch Content Management, LLC is the simulcast purchase and sales agent for the following racetracks: California Authority of Racing Fairs, Del Mar, Fairplex, Golden Gate Fields, Gulfstream Park, Hollywood Park, Kentucky Downs, Laurel Park, Lone Star Park, Meadowlands, Monmouth Park, Pimlico, Portland Meadows, Santa Anita Park, Sonoma County Fair, and Tampa Bay Downs. Please note that the Monarch tracks include every thoroughbred racetrack in the State of California.

We previously expressed our support (and the support of our member racetracks) for new regulations in Nevada that would permit cash rebates. Furthermore, we have previously informed you that we will continue to sell Monarch racetrack signals to the Nevada race books should rebating be permitted. We now understand that some of the Nevada race books have raised the concern that, in response to the legalization of rebating in Nevada, Monarch will significantly increase the price of its racetrack signals, greatly impacting the bottom line of Nevada race books.

Monarch and its racetracks support Nevada race books having *the option* of offering cash rebates to their customers. We do not believe that anyone is advocating that race books *must* offer rebates to their customers, nor would Monarch support such an effort. If one or more race books choose to offer cash rebates to their customers, Monarch would seek a small premium on behalf of its racetracks only from those race books offering rebates. The small premium would come in the form of a 2% upcharge on top of the current racetrack fee. Race books that choose not to offer rebates to their customers would not be impacted by the 2% upcharge; such race books would continue to receive signals of the Monarch racetracks on the same economics and subject to the same restrictions (no rebates, no ADW wagers, etc.) as they receive them today.

To demonstrate its good faith on this issue, in the event the Commission approves the payment of cash rebates within Nevada at the Commission's regularly-scheduled November, 2013 meeting, Monarch will freeze current rates for those race books that choose not to offer rebates for a period of twenty-four (24) months as part of an arrangement under which race books that do offer rebates pay a 2% upcharge on

Peter C. Bernhard, Chairman
Nevada Gaming Commission
November 12, 2013
Page 2.

their handle. As Monarch currently negotiates simulcast arrangements with the Nevada race books on an annual basis, our proposal guarantees that race books that choose not to offer rebates will not face a price increase for at least the next two contract periods. The two year term of our commitment does not mean that we will definitely increase rates at the end of the two years; rather it is a recognition of the fact that we cannot predict what the market for racetrack signals will be two years from now any more than the casinos in Las Vegas can predict the pricing in two years for their hotel rooms, dining, or shows.

We believe that efforts to increase pari-mutuel wagering handle are of the utmost importance. In our opinion rules permitting the payment of cash rebates in Nevada will lead to handle growth. It is for this reason that we are willing to make the two year commitment outlined above.

Please feel free to contact me if you have any questions or need any further information.

Very truly yours,

A handwritten signature in cursive script that reads "Scott Daruty" followed by a circled monogram "SDM".

Scott Daruty
President



NGC #10

STATE OF NEVADA
NEVADA GAMING COMMISSION

MEMORANDUM

Date: November 12, 2013

To: Commissioners

cc: Darlene B. Caruso, Deputy Attorney General

From: Adriana G. Fralick, Esq., Executive Secretary 

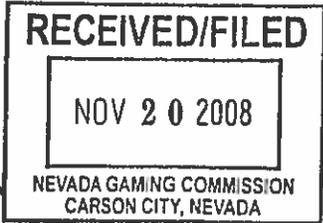
RE: Recommendations from industry for appointment to Pari-Mutuel Wagering Committee

As of today's date, the Commission received recommendations for the following to be appointed to the Off-Track Pari-Mutuel Wagering Committee.

1. American Casino & Entertainment—Aquarius Gaming LLC, dba Aquarius Casino Resort (464.020(5)(b) or (c)) (alternates: Arizona Charlie's, LLC dba Arizona Charlie's Decatur, Stratosphere Gaming LLC, dba Stratosphere Tower, Casino Hotel).
2. Boyd Gaming Corporation—Sam-Will, Inc. dba Fremont Hotel and Casino (464.020(5)(c))
3. Cantor G&W(Nevada), L.P. (464.020(5)(b) or (c))
4. MGM Resorts International—The Mirage Casino-Hotel (464.020(5)(c))
5. NAV-LVH Casino, LLC, dba LVH-Las Vegas Hotel & Casino (464.020(5))
6. Nevada Resort Association—Caesars Palace, Excalibur, The Orleans, Palace Station, South Point (464.020(5)(a))
7. William Hill—Leroy's Horse and Sports Place, Inc; Brandywine Bookmaking LLC (464.020(5)(b))
8. Wynn Las Vegas, LLC (464.020(5)(c))

NRS 464.020 Administration by Nevada Gaming Commission: Issuance of licenses; times and places for wagering; regulations; authority and procedure for appointing Off-Track Pari-Mutuel Wagering Committee; inspection of books and records of licensees.

1. The Nevada Gaming Commission is charged with the administration of this chapter for the protection of the public and in the public interest.
2. The Nevada Gaming Commission may issue licenses permitting the conduct of the pari-mutuel system of wagering, including off-track pari-mutuel wagering, and may adopt, amend and repeal regulations relating to the conduct of such wagering.
3. The wagering must be conducted only by the licensee at the times determined by the Nevada Gaming Commission and only:
 - (a) Within the enclosure wherein the race or other sporting event which is the subject of the wagering occurs; or
 - (b) Within a licensed gaming establishment which has been approved to conduct off-track pari-mutuel wagering.↳ This subsection does not prohibit a person licensed to accept, pursuant to regulations adopted by the Nevada Gaming Commission, off-track pari-mutuel wagers from accepting wagers made by wire communication from patrons within the State of Nevada, from other states in which such wagering is legal or from places outside the United States in which such wagering is legal.
4. The regulations of the Nevada Gaming Commission may include, without limitation:
 - (a) Requiring fingerprinting of an applicant or licensee, or other method of identification.
 - (b) Requiring information concerning an applicant's antecedents, habits and character.
 - (c) Prescribing the method and form of application which any applicant for a license issued pursuant to this chapter must follow and complete before consideration of the applicant's application by the Nevada Gaming Commission.
 - (d) Prescribing the permissible communications technology and requiring the implementation of border control technology that will ensure that a person cannot place a wager with a race book in this State from another state or another location where placing such a wager is illegal.
5. The Nevada Gaming Commission may appoint an Off-Track Pari-Mutuel Wagering Committee consisting of 11 persons who are licensed to engage in off-track pari-mutuel wagering. If the Commission appoints such a Committee, it shall appoint to the Committee:
 - (a) Five members from a list of nominees provided by the State Association of Gaming Establishments whose members collectively paid the most gross revenue fees to the State pursuant to NRS 463.370 in the preceding year;
 - (b) Three members who, in the preceding year, paid gross revenue fees pursuant to NRS 463.370 in an amount that was less than the average amount of gross revenue fees paid by licensees engaged in off-track pari-mutuel wagering in the preceding year; and
 - (c) Three other members.↳ If a vacancy occurs in a position on the Committee for any reason, including, but not limited to, termination of a member, the Commission shall appoint a successor member who satisfies the same criteria in paragraph (a), (b) or (c) that applied to the member whose position has been vacated.
6. If the Nevada Gaming Commission appoints an Off-Track Pari-Mutuel Wagering Committee pursuant to subsection 5, the Commission shall:
 - (a) Grant to the Off-Track Pari-Mutuel Wagering Committee the exclusive right to negotiate an agreement relating to off-track pari-mutuel wagering with:
 - (1) A person who is licensed or otherwise permitted to operate a wagering pool in another state; and
 - (2) A person who is licensed pursuant to this chapter as an operator of a system.
 - (b) Require that any agreement negotiated by the Off-Track Pari-Mutuel Wagering Committee with a track relating to off-track pari-mutuel wagering must not set a different rate for intrastate wagers placed on the licensed premises of a race book and wagers placed through the use of communications technology.
 - (c) Require the Off-Track Pari-Mutuel Wagering Committee to grant to each person licensed pursuant to this chapter to operate an off-track pari-mutuel race pool the right to receive, on a fair and equitable basis, all services concerning wagering in such a race pool that the Committee has negotiated to bring into or provide within this State.
7. The Nevada Gaming Commission shall, and it is granted the power to, demand access to and inspect all books and records of any person licensed pursuant to this chapter pertaining to and affecting the subject of the license.
[2:231:1949; 1943 NCL § 6226.02] + [Part 7:231:1949; A 1951, 538; 1953, 701]—(NRS A 1959, 455; 1965, 521; 1973, 463; 1981, 1947; 1983, 1892; 1991, 2148; 1995, 1501; 1997, 3317; 2003, 3408; 2005, 722; 2009, 2430)



STATE OF NEVADA
BEFORE THE NEVADA GAMING COMMISSION

In the Matter of:)
Off-Track Pari-Mutuel Wagering)
_____)

ORDER

THIS MATTER came on for hearing before the Nevada Gaming Commission (Commission) on November 20, 2008. The Commission having considered all information relevant thereto finds that there is good cause for appointment of a committee pursuant to Nevada Revised Statute 464.020(5). Therefore, pursuant to the unanimous vote of the Commission;

IT IS HEREBY ORDERED that:

1. The following pari-mutuel licensees, who are licensed to engage in off-track pari-mutuel wagering pursuant to Chapter 464 of the Nevada Revised Statutes, are hereby appointed to the Pari-Mutuel Wagering Committee (Committee);

Per NRS 464.020(5)(a):

- 1. Palace Station
- 2. Caesars Palace
- 3. Bally's
- 4. Orleans
- 5. Excalibur

Per NRS 464.020(5)(b):

- 1. Leroy's
- 2. Brandywine
- 3. Flamingo Laughlin

Per NRS 464.020(5)(c):

- 1. South Point
- 2. Mirage
- 3. Wynn Resort

Attorney General's Office
Gaming Division
555 E. Washington Ave., Ste. 3900
Las Vegas, Nevada 89101

